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Ethics Commission

30 Van Ness Ave., Suite 3900
San Francisco, CA 94102
Phone 581-2300 Fax 581-2317

"See revised agenda"

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, January 28, 2002, 5:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

***Please note change in meeting date.**

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of December 17, 2001.

IV. Executive Director's report
1. Budget: FY 02 and FY 03
2. Implementation of limited public financing program
3. Controller's review of Commission mandates/budgetary needs
4. Legislative developments
5. Follow-up to Civil Grand Jury Recommendations
6. Advice and opinions
7. Investigation and enforcement program
8. Report on volume of calls received via the Whistleblower Hotline
9. Campaign finance disclosure program
10. On Line Filing Program
11. Campaign finance audit program
12. Lobbyist program
13. Campaign consultant program
14. Statements of Economic Interests
15. Sunshine Declarations
16. Distribution of FY 00-01 Annual Report
17. Appointment of New Ethics Commission

V. Discussion and possible action re: Proposed budget for FY 02-03 as follows:

Budget A. Baseline budget that absorbs 5.5 percent of personnel costs in departmental FY 02-03 budget, per the Mayor's instructions.

Budget B. Contingency budget that reduces FY 02-03 baseline by additional 10 percent. (Implementation of this reduction will depend on the City's fiscal forecasts.)

Budget C. Proposed budget for implementation of limited public financing program for candidates for the Board of Supervisors in the November 2002 election. Funding for the public financing program is limited to $2 per SF resident per year (about $1.6 million).

Copies of the Commission's proposed FY 02-03 budget will be available from the Commission office or its web site at www.sfgov.org/ethics/ on Thursday, January 24.

VI. Discussion and possible action re: Approval of proposed revised Audit Manual. The revised Manual reflects revised procedures for selecting committees for audit and revised procedures for auditing publicly financed candidates. The Fair Elections Ordinance requires that all publicly financed candidates be audited. The proposed Manual outlines procedures to test for compliance with state and local campaign finance laws. Copies of the proposed revised Audit Manual will be available from the Commission Office and its web site on Thursday, January 24.

VII. Discussion and possible action re: Whether the Campaign Consultant Ordinance's Voluntary Code of Conduct for campaign consultants should be amended to provide that campaign consultants will refrain from appealing to prejudice based on gender identity and whether the Commission should review the Ordinance for other possible amendments and revisions, which must be submitted to the voters. A staff report will be available on Thursday, January 24.

VIII. Discussion and possible action re: Approval of proposed letter to members of the new Ethics Commission who will assume office on or about February 1, 2002.

IX. Discussion and possible action re: Items for future agendas.

X. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XI. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 7

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIII. Closed session pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance section 67.8, Public Employee Performance Evaluation (Executive Director Ginny Vida).

XIV. Discussion and Possible Action re: Disclosure of closed session pursuant to Ralph Brown Act section 54957.1 and Sunshine Ordinance section 67.12.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: public employee performance evaluation (Executive Director Ginny Vida).

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XV. Adjournment.

Know Your Rights Under the Sunshine Ordinance

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND REVISED AGENDA

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17. Appointment of New Ethics Commission

V. Discussion and possible action re: Proposed budget for FY 02-03 as follows:

A. Budget 1. Baseline budget that absorbs 5.5 percent of personnel costs in departmental FY 02-03 budget, per the Mayor's instructions, plus proposed budget to implement limited public financing for Board of Supervisors candidates in November 2002 election under

Proposition O. (Funding for the public financing program is limited to $2 per SF resident per year, or about $1.6 million).

B. Budget 2. Contingency budget that reduces FY 02-03 baseline budget by additional 10 percent (implementation of this reduction will depend on the City's fiscal forecasts), plus proposed budget to implement limited public financing for Board of Supervisors candidates in November 2002 election under Proposition O.

C. Add-On Requests (Enhancement Budget)

Copies of the Commission's proposed FY 02-03 budget will be available from the Commission office or its web site at www.sfgov.org/ethics/ on Thursday, January 24.

VI. Discussion and possible action re: Approval of proposed revised Audit Manual. The revised Manual reflects revised procedures for selecting committees for audit and revised procedures for auditing publicly financed candidates. The Fair Elections Ordinance requires that all publicly financed candidates be audited. The proposed Manual outlines procedures to test for compliance with state and local campaign finance laws. Copies of the proposed revised Audit Manual will be available from the Commission Office and its web site on Thursday, January 24.

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X. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XI. Closed session pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance section 67.8, Public Employee Performance Evaluation (Executive Director Ginny Vida).

XII. Discussion and Possible Action re: Disclosure of closed session pursuant to Ralph Brown Act section 54957.1 and Sunshine Ordinance section 67.12.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: public employee performance evaluation (Executive Director Ginny Vida).

XIII. Adjournment.

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Ethics Commission

January 28, 2002

Minutes of the

San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 408

January 28, 2002, 5:00 p.m.

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I. Call to order and roll call

Chairperson Carol M. Kingsley called the meeting to order at 5:07 p.m. She noted that Commissioner David Serrano Sewell has resigned from his position as Ethics Commissioner to accept an appointment as a member of the new Elections Commission.

COMMISSION MEMBERS PRESENT: Carol M. Kingsley, Chairperson; Paul H. Melbostad, Vice-Chairperson; Isabella H. Grant, Commissioner.

Commissioner Sharyn Saslafsky was absent due to illness.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Shaista Shaikh, Campaign Finance Auditor; Joe Lynn, Campaign Finance Officer.

MATERIALS DISTRIBUTED:

Agenda for the January 28, 2002 Meeting

Draft Minutes of the December 17, 2001 Meeting

Approved Minutes of the November 19, 2001 Meeting

Executive Director's Report for the Meeting of January 28, 2002

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated

January 24, 2002, re: Proposed Budget for FY 02-03

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated

January 24, 2002, re: Proposed Audit Manual Relating to Campaign Audits, Including Audits of Publicly Financed Candidates

Draft Audit Manual

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated

January 24, 2002, re: Possible Revision of Campaign Consultant Ordinance's Voluntary Code of Conduct

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated

January 24, 2002, re: Enclosed New Ordinance

Notice of Workshop on Electronic Searches of the Ethics Commission's Campaign Finance

Database

Draft Letter to Members of New Ethics Commission

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment under this agenda item.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of December 17, 2001.

Commissioner Paul H. Melbostad requested that the last paragraph on page 3 of the minutes of the December 17, 2001 meeting be amended as follows:

Vice-Chairperson Melbostad asked Mr. Nicholson what percentage of special assistants fit the stereotype of having been hired on the basis of ~~nepotism~~ *political favoritism.*

Motion 02-01-28-1 (Melbostad/Grant): Moved, seconded, and unanimously passed: that the minutes of the Ethics Commission meeting of December 17, 2001 be adopted as amended.

IV. Executive Director's Report

Executive Director Ginny Vida referred the Commission to her written report and highlighted some of the issues. She noted that not too long ago the Commission had a backlog of 20 complaints, which has been reduced to 12 complaints. She attributed this accomplishment to the assistance received from the past and current assistant legal analysts.

Commissioners Kingsley, Melbostad and Grant commended staff for its diligent work in reducing the backlog of complaints.

Ms. Vida mentioned that the Quarterly Lobbyist Report would be available on January 29, 2002. She noted that while the report shows a drop in lobbyist activity, it also shows the highest amount of political contributions ever reported by lobbyists in San Francisco.

V. Discussion of proposed budget for FY 02-03.

Commissioner Kingsley announced that the Commission's proposed budget must be delivered to the Mayor's office by February 20. She noted that staff has spent many hours working with representatives of the Mayor's Budget Office to prepare the FY 02-03 budget.

Commissioner Kingsley described the staff proposals as follows:

1) Staff has proposed two baseline budgets with reduced expenditures: a) a budget with funding that absorbs 5.5 percent in projected personnel costs; and b) a budget that, if needed, reduces the Commission's budget by an additional ten percent.

2) Staff has prepared a budget of approximately $1.4 million for implementation of the Commission's new public financing program for the candidates for the Board of Supervisors in the November 2002 election. This budget is proposed in accordance with Proposition O, which was approved by the voters in November 2000.

Ms. Vida discussed the proposals in detail and also discussed the enhancement requests for a Commission secretary, an enforcement reserve fund, and upgrades identified by DTIS (Department of Telecommunication and Information Services) to the Commission's electronic filing system. She acknowledged the presence of Myrna Lopez of the Mayor's Budget Office at the meeting and noted that staff had worked with her and other members of the Mayor's Budget Office to prepare the alternate proposals.

Commissioner Melbostad inquired whether any amount had been factored in for enforcement of new provisions put into effect by Prop O. Ms. Vida explained that 80 percent of the Assistant Legal Analyst's efforts would be directed at Prop O enforcement issues.

Commissioner Kingsley noted that the terms "add-on" and "enhancement" provide an erroneous impression that such items are beyond what the Commission needs when in fact they are remedial and necessary to enable the Commission to function efficiently. Ms. Vida provided an explanation of the "add-on" and "enhancement" items and agreed that such items consisted of serious needs.

Fred Ridel of San Francisco Common Cause stated that items labeled "enhancements" such as updates to OLFS (On Line Filing System), are important to the public in performing successful searches of data. He asked that the Commission make such enhancements a higher priority to provide greater public accessibility. He stated that Common Cause supports the Commission's implementation of Prop O and expressed hope that the Commission will aggressively request funding for Prop O and its other mandates. He also urged the Commission to replace the terms "add-ons" and "enhancements" with terms that convey the serious need for these items.

Commissioner Melbostad asked whether funds left over in the Election Campaign Fund could be used for Prop O administrative costs. Ms. Lopez stated that if the costs were justified, it would be possible to use the funds for administrative purposes related to Prop O requirements. However, she noted that if there were fewer candidates than anticipated, it might be difficult to justify an increase in administrative costs if not all the public finance funds were used.

Mr. Ridel asked what the Commission would do in the event there are more candidates than the maximum numbers projected. Ms. Vida noted that Prop O provides for a pro-rata distribution of funds if the Commission determines that the funds in the Election Campaign Fund are insufficient to provide full matching grants to all eligible candidates. She added, however that staff had requested funding for the Election Campaign Fund based on estimates of the maximum number of candidates that would qualify for each level of public financing.

The Commission then proceeded to vote on staff proposals for the FY 03 budget. This included the 5.5 percent budget and the contingency 10 percent budget, with Prop O funding included in both budgets.

Motion 02-01-28-2 (Grant/Melbostad): Moved, seconded, and unanimously passed: that the Ethics Commission adopt the proposed FY 03 budget.

VI. Approval of proposed revised Audit Manual.

Commissioner Kingsley noted that Campaign Finance Auditor Shaista Shaikh has revised the Commission's Audit Manual to reflect new procedures for selecting committees for audit, and procedures to test for compliance with new campaign finance requirements. Commissioner Kingsley stated that the new manual includes procedures for auditing publicly financed candidates in accordance with Proposition O, which requires that the Commission audit all candidates who participate in the public financing program. At Commissioner Kingsley's

request, Ms. Shaikh directed the Commission's attention to the most important proposed changes.

Motion 02-01-28-3 (Melbostad/Grant): Moved, seconded, and unanimously passed: that the Ethics Commission approve the revised audit manual.

VII. Discussion of whether the Campaign Consultant Ordinance's Voluntary Code of Conduct for campaign consultants should be amended.

Commissioner Kingsley asked Vice-Chairperson Melbostad to discuss the need for amending the Campaign Consultant Ordinance.

Commissioner Melbostad stated that he would like the Voluntary Code of Conduct for Campaign Consultants to be consistent with the City's policies regarding equal employment opportunity, except for the provision regarding political affiliation. However, because any change to the Campaign Consultant Ordinance requires voter approval, he recommended that the Commission add this item to its list of policy initiatives and present the ordinance for voter approval when there are more substantive changes to propose.

Ms. Vida suggested that the Campaign Consultant Ordinance might also be amended to reduce the late fine applicable to campaign consultants from $50 to $25 per day - the same late fine currently paid by lobbyists. She said it would be fairer to charge campaign consultants and lobbyists the same fine for late filings.

Motion 02-01-28-4 (Melbostad/Grant): Moved, seconded, and unanimously passed: that the Ethics Commission add to its list of policy initiatives: 1) amending the Campaign Consultant Ordinance's Voluntary Code of Conduct to make it consistent with the City's policy on Equal Employment Opportunity, with the exception of the term "political affiliation;" and 2) reviewing the Commission's policies regarding prejudice for consistency with the City's policies.

VIII. Discussion of proposed letter to members of the new Ethics Commission who will assume office on or about February 1, 2002.

Commissioner Kingsley announced that under Proposition E, which was approved by the voters in November 2001, the new members of the Ethics Commission will take office on February 1, 2002. She presented for discussion and approval a draft of a letter welcoming the new members.

Motion 02-01-28-5 (Grant/Melbostad): Moved, seconded, and unanimously passed: that the Ethics Commission approve the letter welcoming the new members of the Commission.

IX. Discussion of items for future agendas.

There was no discussion of items for future agendas.

X. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Mr. Ridel, speaking on behalf of the S.F. Chapter of Common Cause, praised the current Commission for its great work over the past years in dealing with difficult issues. He said placement of Proposition O on the ballot was an especially courageous act. Other things, such as dealing with campaign finance reform issues and allowing the public's involvement in decision making are also noteworthy, he said. He affirmed his organization's appreciation of a productive and competent Commission.

XI. Closed session held pursuant to Ralph Brown Act, Section 54957 and Sunshine Ordinance section 67.8, Public Employee Performance Evaluation (Executive Director

Ginny Vida).

Motion 02-01-28-6 (Grant/Melbostad): Moved, seconded, and passed: that the Commission adjourn to closed session.

The Commission adjourned to closed session at 6:29 p.m.

XII. Discussion and Possible Action re: Disclosure of closed session pursuant to Ralph Brown Act section 54957.1 and Sunshine Ordinance section 67.12.

The Commission reconvened in public session.

Motion 02-01-28-7 (Melbostad/Grant): Moved, seconded, and passed: The Ethics Commission finds it in the best interest of the public to disclose its closed session deliberations re: public employee performance evaluation (Executive Director Ginny Vida).

Commissioner Isabella H. Grant announced that the Commission had evaluated Ms. Vida's overall performance as excellent, and recommended that she be retained.

XIII. Adjournment

The Commission thanked staff and the deputy city attorneys for their support, guidance and hard work. Ms. Vida presented plaques to the Commissioners in appreciation of their service.

Chairperson Kingsley announced that the next regular Commission meeting is scheduled for **February 11, 2002.** This will be the first regular meeting for the Commission's new members.

The meeting was adjourned at 7:12 p.m.

Respectfully submitted,

_____

Shaista Shaikh

Campaign Finance Auditor

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San Francisco
Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION

NOTICE OF SPECIAL MEETING

Wednesday, February 6, 2002, 1:00 p.m. to 4:00 p.m.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

Workshop on Electronic Searches of the Ethics Commission's Campaign Finance Database

***Please note change in meeting date.**

The Ethics Commission will present a workshop on electronic searches of its Campaign Finance Database. The Commission has one of the country's most advanced means of collecting campaign finance reporting data. The database now contains data from four years from all local committees that had at least $5,000 annual activity. There are more than 1,000 campaign reports in this database which your computer can instantly sort or find. There are over 80,000 campaign finance events stored in the database.

The workshop will cover the basic elements of downloading information from the Commission's web site and finding specific contributions or expenditures. More advanced topics to be covered include:

⇒ The differences between searching the database on the Internet and from available compact disks.

⇒ How to recognize what data has been changed by the committee through an amendment.

⇒ Strategies for researching possible violations of local and state campaign finance laws .

⇒ How to follow money trails between committees.

(Please turn over)

Citizen activists, committee treasurers, journalists, candidates and City officers will learn the power of San Francisco's award-winning electronic filing system. The workshop will assume some familiarity on your part with spreadsheets generated in programs such as Microsoft Excel.

Space in Room 416 is limited. Please call the Ethics Commission at 581-2300 to reserve your space now.

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, February 11, 2002, 6:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

***Please note change in time.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible approval of the minutes of the Ethics Commission meeting of January 28, 2002.**

IV. **Executive Director's report**
1. **Budget: FY 02 and FY 03**
2. **Controller's review of Commission mandates/budgetary needs**
3. **Implementation of limited public financing program**
4. **Legislative developments**
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11. **Campaign finance audit program**
12. **Lobbyist program**
13. **Campaign consultant program**
14. **Statements of Economic Interests**
15. **Sunshine Declarations**
16. **Appointment of New Ethics Commission**
17. **Speaking engagements**

V. **Discussion and possible action: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson.**

VI. Discussion and possible action re: Review and prioritizing of Ethics Commission's List of Policy Initiatives and Projects. Copies of the revised List will be available from the Commission Office and its web site at sfgov.org/ethics/ on Thursday, February 7.

VII. Discussion and possible action re: Procedures for requesting that items be placed on the Commission's agenda or added to the Commission's List of Policy Initiatives and Projects.

VIII. Discussion and possible action re: Approval of proposed technical revisions to the Commission's By-laws and Regulations for Investigations and Enforcement Procedures. The proposed technical revisions reflect changes mandated by the voters through approval of Proposition E in the November 2002 election. Copies of the proposed technical revisions will be available from the Commission office and its web site on Thursday, February 7.

IX. Discussion and possible action re: Presentation by a representative of the City Attorney's Office regarding laws and rules governing the conduct of Members of the Ethics Commission.

X. Discussion and possible action re: Scheduling an open house or reception to introduce the new Ethics Commission to members of the public.

XI. Discussion and possible action re: Items for future agendas.

XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XIII. Adjournment.

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND REVISED AGENDA

Monday, February 11, 2002, 6:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

*Please note change in time.

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of January 28, 2002.

IV. Executive Director's report
1. Budget: FY 02 and FY 03
2. Controller's review of Commission mandates/budgetary needs
3. Implementation of limited public financing program
4. Legislative developments
5. Follow-up to Civil Grand Jury Recommendations
6. Advice and opinions
7. Investigation and enforcement program
8. Report on volume of calls received via the Whistleblower Hotline
9. Campaign finance disclosure program
10. On Line Filing Program
11. Campaign finance audit program
12. Lobbyist program
13. Campaign consultant program
14. Statements of Economic Interests
15. Sunshine Declarations
16. Appointment of New Ethics Commission
17. Speaking engagements

V. Discussion and possible action: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson.

VI. Discussion and possible action re: Review and prioritizing of Ethics Commission's List of Policy Initiatives and Projects. Copies of the revised List will be available from the Commission Office and its web site at sfgov.org/ethics/ on Thursday, February 7.

VII. Discussion and possible action re: Procedures for requesting that items be placed on the Commission's agenda or added to the Commission's List of Policy Initiatives and Projects.

VIII. Discussion re: Proposed amendments to the Commission's By-laws to conform with Proposition E and other changes in City law; and whether to amend the By-laws to change the day of the Commission's regular meetings. Copies of the proposed technical amendments will be available from the Commission office on Thursday, February 7.

IX. Discussion and possible action re: Proposed amendment to the Commission's Regulations for Investigations and Enforcement Procedures to conform to Proposition E and other changes in City law. Copies of the proposed technical revisions will be available from the Commission office and its web site on Thursday, February 7.

X. Discussion and possible action re: Presentation by a representative of the City Attorney's Office regarding laws and rules governing the conduct of Members of the Ethics Commission.

XI. Discussion and possible action re: Amending the Ethics Commission's proposed FY 2002-2003 budget to revise the List of Enhancements Needed to include a budget request for additional office space, and to include items that are currently included in the budget but might be eliminated from the budget if the Mayor requires departments to reduce their budgets. A revised proposed List of Enhancements Needed will be available from the Commission office and its web site on Friday, February 8.

XII. Discussion and possible action re: Scheduling an open house or reception to introduce the new Ethics Commission to members of the public.

XIII. Discussion and possible action re: Items for future agendas.

XIV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XV. Adjournment.

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Ethics Commission >> Meeting Information

Ethics Commission

February 11, 2002

Approved 3/22/02

Minutes of the Meeting of the

San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 408

February 11, 2002, 6:00 p.m.

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I. Call to order and roll call

Chairperson Carol M. Kingsley called the meeting to order at 6:05 p.m. She welcomed Commissioner Robert R. Planthold to the Commission, who was appointed by Assessor Doris Ward. Commissioner Planthold stated that he was pleased to be appointed to the Commission. Commissioner Kingsley announced that the City Attorney has advised that he will appoint a new member to the Commission. Commissioner Kingsley said she has agreed to serve on the Commission until the new commissioner has been sworn in.

COMMISSION MEMBERS PRESENT: Carol M. Kingsley, Chairperson; Paul H. Melbostad, Vice-Chairperson; Isabella H. Grant, Commissioner; Robert R. Planthold, Commissioner.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst.

OTHERS PRESENT: Jim Reid; Fred Ridel; Mike Mooney; Anita Mayo, Pillsbury Winthrop.

MATERIALS DISTRIBUTED:

Agenda for the February 11, 2002 Meeting

Draft Minutes of the January 28, 2002 Meeting

Approved Minutes of the December 17, 2001 Meeting

Executive Director's Report for the Meeting of February 11, 2002

Spreadsheet entitled "FY 03 Enhancements Needed"

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated February 7,

2002, re: List of Policy Initiatives and Projects

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated February 6,

2002, re: Proposed Amendments to Ethics Commission Bylaws

Memorandum to Members of the SF Ethics Commission from Ginny Vida, dated February 6, 2002, re: Proposed Technical Amendments to Ethics Commission Enforcement Regulations to Reflect Changes Made by Proposition E

Letter to Members, San Francisco Board of Supervisors, Declared Candidates for the Board of Supervisors in November 2002 Election, and Former Candidates for the Board of Supervisors in November 2000 election from Ginny Vida, dated February 11, 2002, re: Public Financing Program

Letter to Committee Treasurers from Ginny Vida, dated February 15, 2002, re: New Fair Political Practices Commission Form 511

San Francisco Chronicle article, dated January 30, 2001, entitled "Lobbyists and City Hall."

San Francisco Chronicle article, dated January 31, 2002, entitled "S.F. Lobbyists Feel Pinch - Days of Carte Blanche End. New Supervisors Cool to Corporate Flacks."

I. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Jim Reid stated that he hopes the new Commission will work on legislation to provide public financing to candidates for Mayor.

II. Discussion and possible approval of the minutes of the Ethics Commission meeting of January 28, 2002.

Commissioner Planthold requested that he be recused from voting on the January 28, 2002 minutes because he did not attend the meeting, and the other commissioners agreed.

Motion 02-02-11-1 (Grant/Melbostad): Moved, seconded, and unanimously passed: that the minutes of the Ethics Commission meeting of January 28, 2002 be adopted.

IV. Executive Director's Report

Executive Director Ginny Vida thanked Commissioners Kingsley and Grant for their excellent contributions to the Ethics Commission. She referred the Commission to her written report and highlighted some of the issues.

With respect to Item 1 of her report, Fiscal Year 03 budget, she stated that if the 5.5 percent budget is approved, it will create the following positions: public finance administrator, public finance auditor, public finance auditor clerk and fines collection clerk. It would also make permanent two positions that are currently temporary: assistant legal analyst and public finance clerk. She stated that approval of this budget will greatly assist the Commission in meeting its mandates.

With respect to Item 2 of her report, Implementation of Limited Public Financing Program, Ms. Vida reported that the staff sent out a letter to prospective candidates for the Board of Supervisors in the November 2002 election. Copies of the letter were available at the meeting.

With respect to Item 4 of her report, Legislative Developments, Ms. Vida indicated that a

number of legislative proposals from the Commission are pending before the Rules Committee, and that she will work with Supervisor Hall's office to get the items calendared.

With respect to Item 14 of her report, Statements of Economic Interests, Ms. Vida stated that the staff held a workshop for commission secretaries to instruct them as to how to distribute and collect Statements of Economic Interests from members of their boards and commissions. The workshop will help the Commission obtain better compliance with SEI filing earlier in the year. Staff spent a great deal of time pursuing 2001 non-filers. This year, staff plans to refer to the Fair Political Practices Commission the names of persons who fail to file their SEIs. Non-filers would face penalties of up to $5,000.

With respect to Item 15 of her report, Sunshine Ordinance Declarations, Ms. Vida stated that the staff is currently notifying department heads and members of boards and commissions of their obligation to file Declarations. She stated that the new filing deadline is April 1.

V. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson.

This item was deferred until a subsequent meeting of the Commission.

VI. Discussion and possible action re: Review and prioritizing of Ethics Commission's List of Policy Initiatives and Projects.

Chairperson Kingsley stated that the Commission's first priority should be submitting the Commission's budget by February 20. Then, the Commission needs to focus on implementation of the public financing program. She stated that the new Ethics Commission might wish to re-prioritize and/or add to the list of policy initiatives and projects. Vice-Chairperson Melbostad added that the Commission had tried to move ahead on the items on the list to some extent, but noted that due to lack of resources, had not been able to address them all.

Commissioner Planthold concurred that the budget and the public financing program have priority over other matters. He stated that in view of the lack of public response at the Commission's recent public hearing on special assistants in the City's workforce, the Commission's report to the Civil Grand Jury on that subject did not need to be a high priority. Commissioner Melbostad stated that he would like the Commission to address loopholes in the law that have prevented the Commission from taking enforcement action on complaints in the past. He suggested that staff compile a list of possible changes in the law for the Commission's review. Ms. Vida indicated that the staff is currently working on amendments to the CFRO, but noted that staff could provide some suggestions to the Commission if this item is deemed a priority.

No action was taken with regard to this item.

VII. Discussion and possible action re: Procedures for requesting that items be placed on the Commission's agenda or added to the Commission's List of Policy Initiatives and Projects.

Chairperson Kingsley noted that in the past, the chairperson had placed on the agenda items from the List of Policy Initiatives that were previously designated by the Commission as priorities, or items that need to be addressed based on timeliness. She asked the Commission whether it wished to continue this procedure.

Commissioner Melbostad noted that there has not been a time when the Chairperson refused to entertain placing an item on the agenda.

Motion 02-02-11-2 (Planthold/Grant): Moved, seconded, and unanimously passed: that the current procedure for requesting that items be placed on the Commission's agenda or added to the Commission's List of Policy Initiatives and Projects be continued.

Commissioner Planthold noted that when the Commission votes, it may want to have the Commission Secretary call each Commission member's name so that each member's vote is individually recorded. Commissioner Kingsley stated that she believed the Commission's current method of voting is in compliance with the Sunshine Ordinance. Deputy City Attorney Claire Sylvia confirmed that the Commission's method of voting is in compliance with the law. Commissioner Kingsley suggested that this item could be raised with the new Commission.

VIII. Discussion re: Proposed amendments to the Commission's By-laws to conform with Proposition E and other changes in City law; and whether to amend the By-laws to change the day of the Commission's regular meetings.

Commissioner Kingsley advised that proposed changes in the by-laws had been calendared for discussion only. She indicated that a special meeting would likely be called at which the new Commission could take action on the proposed technical amendments and whether to change the day of the Commission's regular meetings.

Deputy Director Mabel Ng outlined the proposed technical amendments to the Commission's By-laws. She indicated that the amendments are mandated by Proposition E and other changes in current law. Executive Director Vida added that the only substantive change being proposed was the day of the Commission's meeting, but noted that the Commission would address this issue at a later meeting.

Commissioner Planthold indicated that finding a meeting room at night in City Hall will be difficult. He suggested that the Commission consider a straddled schedule, whereby the meeting would be held at 4:00 p.m. or 4:30 p.m. and run until 6:00 p.m. or so. He indicated that various constituencies could be served that way. Vice-Chairperson Melbostad inquired as to whether changing the time of the meeting would increase public attendance at meetings.

No action was taken on this item.

IX. Discussion and possible action re: Proposed amendment to the Commission's Regulations for Investigations and Enforcement Procedures to conform to Proposition E and other changes in City law.

Deputy Director Ng outlined the proposed amendments to the Commission's Regulations for Investigations and Enforcement Proceedings. She indicated that Proposition E deleted the Charter requirement that prohibited the Commission from investigating complaints until the District Attorney and City Attorney notify the Commission that they do not intend to pursue an investigation. Under Proposition E, the Commission may now investigate complaints upon their receipt. The proposed amendments to the Regulations would mirror the provisions of Proposition E, eliminating language that requires the Commission to wait to investigate complaints it receives. She indicated that the proposed amendments would also clarify the laws over which the Commission has enforcement jurisdiction.

Motion 02-02-11-3 (Planthold/Grant): Moved, seconded, and unanimously passed: that the Commission's Regulations for Investigations and Enforcement Procedures be amended to conform to Proposition E and other changes in City law.

X. Discussion and possible action re: Presentation by a representative of the City Attorney's Office regarding laws and rules governing the conduct of Members of the Ethics Commission.

This item was deferred until a subsequent meeting of the Commission.

XI. Discussion and possible action re: Amending the Ethics Commission's proposed FY 2002-2003 budget to revise the List of Enhancements Needed to include a budget request for additional office space, and to include items that are currently included in the budget but might be eliminated from the budget if the Mayor requires departments to reduce their

budgets.

Ms. Vida referred the Commission to the document entitled "FY 03 Enhancements Needed" that was distributed at the meeting. She stated that staff had proposed additional revisions to the enhancements list that was approved at the January meeting. She discussed the enhancements needed by the Commission. In addition to a Commission Secretary, the Commission would need a Fines Collection Clerk if the proposed 10 percent cut is implemented. The enhancement list also includes funding to restore the 40 hour work week because under the proposed 10 percent cut, staff may have to work a 38 hour week. Other enhancements needed include a reserve fund for expenses associated with enforcement of complaints, and numerous DTIS upgrades. Finally, the list includes costs associated with expanding into the vacant office adjacent to the Commission office.

Vice-Chairperson Melbostad added that the Commission also badly needs a policy analyst position. He noted that the enhancements are necessary for the basic functioning of the Commission.

Commissioner Planthold indicated that the Commission needs additional office space to store boxes of documents that have been requested by members of the public for review. He agreed with Commissioner Melbostad that the DTIS upgrades are necessary.

Motion 02-02-11-4 (Planthold/Grant): Moved, seconded, and unanimously passed: that the Ethics Commission's proposed FY 2002-2003 budget be amended to revise the List of Enhancements Needed to include a budget request for additional office space, and to include items that are currently included in the budget but might be eliminated from the budget if the Mayor requires departments to reduce their budgets.

XII. Discussion and possible action re: Scheduling an open house or reception to introduce the new Ethics Commission to members of the public.

This item was deferred until a subsequent meeting of the Commission.

XIII. Discussion and possible action re: Items for future agendas.

Commissioner Planthold suggested that the Commission should consider having the staff create a matrix that lists where documents and complaints should be filed. He stated that this would be of great assistance to the public.

Commissioner Grant supported this idea, indicating that it would assist the public in complying with the law.

XIV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Mike Mooney stated that he believes evening meetings work well, but that Commissioner Planthold's suggestion to straddle the meetings around the dinner hour might work also. He indicated that he believes Commissioner Planthold's suggestion that the staff create a filing matrix is a good idea. He also thanked the Commissioners and staff for their hard work.

XV. Adjournment

Commissioner Kingsley thanked members of the public for their continued interest in the Commission's meetings, and reiterated to staff, the City Attorney's Office and her colleagues that it was her pleasure to work with them. Commissioner Grant, who announced that she would resign from the Commission after the meeting, joined Commissioner Kingsley in her sentiments.

The meeting was adjourned at 7:10 p.m.

Respectfully submitted,

Katherine C. Havener

Ethics Investigator/Legal Analyst

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Special

Ethics Commission

30 Van Ness Ave., Suite 3900
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Phone 581-2300 Fax 581-2317

SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Friday, March 22, 2002, 3:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

*Please note change in date and time.

I. Call to order and roll call.

II. Swearing in of Michele Anglade as a member of the Ethics Commission. City Attorney Dennis Herrera will administer the Oath of Office.

III. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

IV. Discussion and possible approval of the minutes of the Ethics Commission meeting of February 11, 2002.

V. Executive Director's report
1. Budget: FY 02 and FY 03
2. Controller's review of Commission mandates/budgetary needs
3. Implementation of limited public financing program
4. Legislative developments
5. Follow-up to Civil Grand Jury Recommendations
6. Advice and opinions
7. Investigation and enforcement program
8. Report on volume of calls received via the Whistleblower Hotline
9. Campaign finance disclosure program
10. On-line filing program
11. Campaign finance audit program
12. Lobbyist program
13. Campaign consultant program
14. Statements of Economic Interests
15. Sunshine Declarations
16. Appointment of new Ethics Commission Members

VI. Discussion and possible action re: Drawing of lots by Commissioners to determine the length of term of each Commissioner. Under Proposition E, approved by the voters in

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November 2001, the first five members appointed to the Ethics Commission on or after February 1, 2002, must classify their terms by lot, so that the term of one commissioner expires at 12:00 noon on each of the second, third, fourth, fifth and sixth anniversaries of February 1, 2002.

VII. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson, including whether to select an interim chairperson or to postpone nomination and election of officers to the next meeting.

VIII. Discussion and possible action re: Proposed legislation introduced by Supervisor Aaron Peskin to amend the Campaign Finance Reform Ordinance to define net debt outstanding, prohibit fundraising by candidates after an election in amounts greater than the net debt outstanding on the date of the election, and require that candidates file a form with the Ethics Commission disclosing the net debt outstanding on the date of an election. Copies of the proposed legislation will be available from the Commission office and on its web site on Monday, March 18.

IX. Discussion and possible action re: Proposed technical amendments to the Commission's By-laws to conform with Proposition E and other changes in City law and whether to amend the By-laws to change the day of the Commission's regular meetings. Copies of the proposed technical amendments will be available from the Commission's office and on its web site on Monday, March 18.

X. Discussion and possible action re: Approval of proposed Candidates' Manual for the Board of Supervisors, which discusses requirements for participation in the limited public financing program. Copies of the proposed Candidates' Manual will be available from the Commission office and on its web site on Monday, March 18.

XI. Discussion and possible action re: Presentation by a representative of the City Attorney's Office regarding laws and rules governing the conduct of Members of the Ethics Commission.

XII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; whether to retain provision requiring Ethics Commission office to be open the Saturday before Election Day; and technical amendments. Information about the proposed amendments will be available from the Commission office and its web site on Monday, March 18.

XIII. Discussion and possible action re: Scheduling an open house or reception to introduce the new members of the Ethics Commission to members of the public.

XIV. Discussion and possible action re: Whether the Ethics Commission should be advised by pro bono counsel instead of the City Attorney.

XV. Discussion and possible action re: Whether the Ethics Commission should invite a representative of the Fair Political Practices Commission to make a presentation on the FPPC's investigation and enforcement procedures.

XVI. Discussion and possible action re: Items for future agendas.

XVII. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

XVIII. **Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.**

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 4

XIX. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.**

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XX. **Adjournment.**

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Ethics Commission

March 22, 2002

Approved 4/24/02

Minutes of the Meeting of the
San Francisco Ethics Commission
City Hall, One Dr. Carlton B. Goodlett Place, Room 416
March 22, 2002, 3:00 p.m.

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I. Call to order and roll call

Vice-Chairperson Paul Melbostad called the meeting to order at 3:02 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Vice-Chairperson; Michele Anglade, Commissioner; Waukeen Q. McCoy, Commissioner; Robert R. Planthold, Commissioner

STAFF PRESENT: Mabel Ng, Deputy Executive Director; Katherine Havener, Legal Analyst/Investigator; Joe Lynn, Campaign Finance Officer/Office Manager

CITY ATTORNEY'S OFFICE: Claire Sylvia, Deputy City Attorney

OTHERS PRESENT: Fred Ridel, Common Cause; Michael Mooney, Common Cause; Paul Ryan, Center for Governmental Studies

MATERIALS DISTRIBUTED

Agenda for the Meeting of March 22, 2002

Executive Director's Report for the Meeting of March 22, 2002

Draft Minutes of the Meeting of February 11, 2002

Approved Minutes of the Meeting of January 28, 2002

Letter dated March 18, 2002 from Hon. Aaron Peskin to Members of the San Francisco Ethics Commission

Legislative Digest and Proposed Legislation re Post-Election Fundraising Limitations

Memo dated February 6, 2002 from Ginny Vida to Members San Francisco Ethics Commission re Proposed Amendments to Ethics Commission Bylaws

Candidates' Guide for Board of Supervisors for November 2002 Election

San Francisco Campaign and Governmental Conduct Code, Article I, Chapter 1

Memo dated February 6, 2002 from Ginny Vida to Members San Francisco Ethics Commission re List of Policy Initiatives and Projects

"On the Brink of Clean," a Report by the Center for Governmental Studies, Paul Ryan, Project Director

"New Limits on Political Spending Proposed," Los Angeles Times, March 13, 2002

Memo dated March 13, 2002 to Virginia Vida from Charles Marsteller re Suggested Amendments to CFRO

II. Swearing in of Michele Anglade as a member of the Ethics Commission.

City Attorney Dennis Herrera administered the oath of office to Michele Anglade.

III. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Fred Ridel of Common Cause welcomed the new Commissioners.

Michael Mooney of Common Cause queried the Commission on how Proposition O limits on independent expenditure committee contributions worked during the last election. Deputy Executive Director Mabel Ng replied that staff is examining the issue and may propose amendments to the Campaign Finance Reform Ordinance.

IV. Discussion and possible approval of the minutes of the Ethics Commission meeting of February 11, 2002.

Motion 02-03-22-1 (Planthold/McCoy): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of February 11, 2002 be approved.

V. Executive Director's report

1. Budget: FY 02 and FY 03

2. Controller's review of Commission mandates/budgetary needs

3. Implementation of limited public financing program

4. Legislative developments

5. Follow-up to Civil Grand Jury Recommendations

6. Advice and opinions

7. Investigation and enforcement program

8. Report on volume of calls received via the Whistleblower Hotline

9. Campaign finance disclosure program

10. On-line filing program

11. Campaign finance audit program

12. Lobbyist program

13. Campaign consultant program

14. Statements of Economic Interests

15. Sunshine Declarations

16. Appointment of new Ethics Commission Members

Ms. Ng noted the absence of Executive Director Ginny Vida due to illness. She stated that the Executive Director's report is in writing and invited questions.

Commissioner Robert Planthold asked that he be notified of any meetings concerning the Commission's budget submission.

VI. Discussion and possible action re: Drawing of lots by Commissioners to determine the length of term of each Commissioner.

This item was deferred until a future meeting following the appointment of a new Commissioner by the Board of Supervisors.

VII. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson, including whether to select an interim chairperson or to postpone nomination and election of officers to the next meeting.

Vice-Chairperson Melbostad explained that he was elected Vice-chair of the previous Commission and that he is serving temporarily as chairperson for the current meeting. Commissioner Planthold stated that although the Commission may not wish to consider the election of a chair and vice-chair until all members of the Commission have been appointed, it may wish to select an interim chair to act as the Commission's spokesperson and to chair meetings until a chair is elected.

Motion 02-03-22-2 (Planthold/Anglade): Moved, seconded, and passed: that the election of officers be postponed and that Paul Melbostad be selected as interim chair of the Commission.

VIII. Discussion and possible action re: Proposed legislation introduced by Supervisor Aaron Peskin to amend the Campaign Finance Reform Ordinance to define net debt outstanding, prohibit fundraising by candidates after an election in amounts greater than the net debt outstanding on the date of the election, and require that candidates file a form with the Ethics Commission disclosing the net debt outstanding on the date of an election.

Wade Crowfoot, Legislative Aide to Supervisor Aaron Peskin, testified that Supervisor Peskin is concerned that the law currently encourages candidates to carry debt into a runoff election and beyond by permitting them to raise contributions in $750 increments (rather than $250) if the purpose is to reduce debt. Supervisor Peskin's legislation would require a public declaration of the debt outstanding and would prohibit candidates from any fundraising once the debt is retired. In addition, present law does not prohibit fundraising after debt is retired. Under the proposal, a candidate would be required to file a statement with the Ethics Commission, within five business days of the election, disclosing net debt outstanding on the date of an election.

Mr. Crowfoot explained that the legislation is aimed at reducing corruption or the appearance of corruption; he added that he is not aware of any evidence of real corruption. He confirmed that even though candidates may raise $750 during the runoff only for the purpose of paying off debt, candidates now could potentially use the $750 cash flow for purposes other than to pay off debt.

The Commissioners discussed whether certain provisions of the legislation could be strengthened. Commissioner Planthold asked whether or not it needs to be clarified that the term "City elective office" includes all offices that appear on the local ballot. Commissioner Anglade suggested that the definition of net debt outstanding not include fines or fees and that the term "surplus funds" not contradict any other use of that term in the Campaign Finance Reform Ordinance.

Mr. Ridel testified that he supports the legislation. He added that a mechanism by which the candidates could amend their statements of net debt outstanding should be provided. Commissioner Anglade stated that the Commission should have the authority to allow candidates to amend their statements; Commissioner McCoy agreed, as long as the Commission is the arbiter of the accuracy of the amendment.

Motion 02-03-22-3 (Planthold/Anglade): Moved, seconded, and unanimously passed (4-0): that the Commission approve the legislation proposed by Supervisor Peskin with amendments as follows:

1. 1.104(c): To clarify whether or not the term "City elective office" includes offices on the local ballot that are not City elective offices;

2. 1.104(m)(2): To specify that "net debt outstanding" not include fines or fees;

3. 1.104(r): To ensure that the use of the term "surplus funds" not contradict any other use of that term in the Campaign Finance Reform Ordinance; and

4. 1.119: To provide that the Commission may allow a campaign to amend its statement of net debt outstanding.

IX. Discussion and possible action re: Proposed technical amendments to the Commission's By-laws to conform with Proposition E and other changes in City law and whether to amend the By-laws to change the day of the Commission's regular meetings.

Motion 02-03-22-4 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the by-laws as proposed be adopted, except that the date of the Commission meetings remain the same pending further action by the Commission upon the Board of Supervisors' appointment of a new Commissioner.

X. Discussion and possible action re: Approval of proposed Candidates' Manual for the Board of Supervisors, which discusses requirements for participation in the limited public financing program.

Motion 02-03-22-5 (McCoy/Planthold): Moved, seconded, and unanimously passed: that the Candidates' Manual for the Board of Supervisors be approved.

XI. Discussion and possible action re: Presentation by a representative of the City Attorney's Office regarding laws and rules governing the conduct of Members of the Ethics Commission.

Deputy City Attorney Claire Sylvia advised the commissioners of the laws and rules governing the conduct of the members of the Ethics Commission. She explained the Political Reform Act, Government Code Section 1090, common law concepts of conflict of interests, gift rules, and local laws.

XII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; whether to retain provision requiring Ethics Commission office to be open the Saturday

before Election Day; and technical amendments.

The Commission took this item up at 6:05 p.m. after completing the closed session noted below as item XVIII.

Paul Ryan, Esq., Center for Governmental Studies, addressed the Commission concerning his study of the San Francisco Campaign Finance Reform Ordinance. The study, included in materials distributed to the public, contained 14 suggestions, some of which were congruent with the staff's suggestions. He noted that he disagreed with some of the staff recommendations. He said that the Commission should not lower the time periods during which documents must be retained. He said that the Commission should continue to require, as a means of further public disclosure, that committees making independent expenditures file reports with the Commission even after the expenditure ceiling has been lifted. He further recommended that the 5 percent reporting threshold for committees making independent expenditures regarding supervisorial candidates should replace the 25 percent reporting threshold regarding other offices.

Ms. Ng noted that the staff proposal serves as a starting point for discussion and that the intent of staff was to have further hearings on its proposals.

Chairperson Melbostad expressed his appreciation to the Center for Governmental Studies and Mr. Ryan for the study.

Mr. Ryan offered the Center as a resource to the Commission and thanked staff for their excellent help in researching the paper. Chairperson Melbostad said that the Commission will keep the Center advised as to any future hearings on these questions.

Motion 02-03-22-8 (Planthold/McCoy): Moved, seconded, and unanimously passed: that the staff in consultation with the City Attorney draft language incorporating the staff's proposals to amend the Campaign Finance Reform Ordinance.

XIII. Discussion and possible action re: Scheduling an open house or reception to introduce the new members of the Ethics Commission to members of the public.

This matter was deferred until a future meeting following the appointment of a new Commissioner by the Board of Supervisors.

XIV. Discussion and possible action re: Whether the Ethics Commission should be advised by pro bono counsel instead of the City Attorney.

At the suggestion of Commissioner McCoy, this matter was tabled until a future meeting following the appointment of a new Commissioner by the Board of Supervisors.

XV. Discussion and possible action re: Whether the Ethics Commission should invite a representative of the Fair Political Practices Commission to make a presentation on the FPPC's investigation and enforcement procedures.

Commissioner McCoy stated that a presentation by the FPPC would be helpful to the Commission. Commissioner Planthold stated that such a presentation would clear up some of the questions he has concerning the overlapping jurisdictions of the two bodies. Chairperson Melbostad directed the staff to set up a presentation at a future Commission meeting.

XVI. Discussion and possible action re: Items for future agendas.

There was no discussion.

XVII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XVIII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 4

Motion 02-03-22-6 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Commission adjourn to closed session.

The Commission adjourned at 4:28 p.m. and reconvened in public session at 6:05 p.m.

XIX. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion 02-03-22-7 (McCoy/Anglade): Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XX. Adjournment.

The Commission scheduled its next meeting for Friday, April 19, 2002 at 2 p.m., pending room availability.

Motion 02-03-22-9 (Planthold/Anglade): Moved, seconded and passed: That the Commission meeting be adjourned.

The meeting was adjourned at 6:32 p.m.

Respectfully submitted,

_____

Joe Lynn

Campaign Finance Officer/Office Manager

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Ethics Commission

30 Van Ness Ave., Suite 3900
San Francisco, CA 94102
Phone 581-2300 Fax 581-2317

SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Wednesday, April 24, 2002, 9:00 A.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416*

***Please note change in date, time and location.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible approval of the minutes of the Ethics Commission meeting of March 22, 2002.**

IV. **Executive Director's report**
1. **Budget: FY 02 and FY 03**
2. **Controller's review of Commission mandates/budgetary needs**
3. **Implementation of limited public financing program**
4. **Legislative developments**
5. **Advice and opinions**
6. **Investigation and enforcement program**
7. **Report on volume of calls received via the Whistleblower Hotline**
8. **Campaign finance disclosure program**
9. **On-line filing program**
10. **Campaign finance audit program**
11. **Lobbyist program**
12. **Campaign consultant program**
13. **Statements of Economic Interests**
14. **Sunshine Declarations**
15. **Appointment of new Ethics Commission Members**
16. **Plans for COGEL conference in 2004**

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V. **Discussion and possible action re: 1) Approval of proposed terms of a licensing agreement between the Ethics Commission and the Department of Telecommunications and Information Services and the Santa Clara County Registrar's Office, by which Santa Clara County would purchase a license from the City of San Francisco to adopt San Francisco's On Line Filing Program for electronic reporting of campaign reports for use by Santa**

Clara County's campaign committees; and 2) Authorizing the Commission's Vice-Chairperson to approve further modifications in the terms of the agreement and to finally approve the licensing agreement. A copy of the proposed terms of the licensing agreement will be available from the Ethics Commission office on Friday, April 19.

VI. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; whether to retain provision requiring Ethics Commission office to be open the Saturday before Election Day; and technical amendments. The proposed amendments will be available from the Commission office and its web site on Monday, April 22.

VII. Presentation by a representative of the Fair Political Practices Commission on the FPPC's investigation and enforcement procedures.

VIII. Discussion and possible action re: Items for future agendas.

IX. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

X. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 1

XI. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XII. Adjournment.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the SF Admin. Code) or to report a violation of the ordinance, contact Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683. Telephone: (415) 554-7724; Fax: (415) 554-7854; E-mail: Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Sunshine Task Force, the San Francisco Public Library and on the City's web site at www.ci.sf.ca.us

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Ethics Commission

April 24, 2002

(Approved 5/30/02)

Minutes of the Special Meeting of the San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 416

April 24, 2002, 9:00 a.m.

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I. Call to order and roll call

Vice-Chairperson Paul Melbostad not yet having arrived, Commissioner Robert Planthold called the meeting to order at 9:02 a.m. Vice-Chairperson Melbostad joined the meeting in progress.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Vice-Chairperson; Michele Anglade, Commissioner; Waukeen Q. McCoy, Commissioner; Robert R. Planthold, Commissioner

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst; Shaista Shaikh, Auditor; Frank M. Lester, Campaign Finance Assistant

CITY ATTORNEY'S OFFICE: Claire Sylvia, Deputy City Attorney

OTHERS PRESENT: Steven Russo, Chief of Enforcement, Fair Political Practices Commission; Anita Mayo, Pillsbury Winthrop; Mike Mooney

MATERIALS DISTRIBUTED

Agenda for the Meeting of April 24, 2002

Executive Director's Report for the Meeting of April 24, 2002

Draft Minutes of the Meeting of March 22, 2002

Approved Minutes of the Meeting of February 11, 2002

Memo regarding proposed amendments to the Campaign Finance Reform Ordinance

Text of proposed amendments to the Campaign Finance Reform Ordinance

Remarks of Ginny Vida before the Budget Committee of the San Francisco Board of Supervisors, April 9, 2002

Memo dated April 2, 2002 from Ginny Vida to Gloria Young regarding Ethics Commission's Budget for FY 02-03

Notice of Whistleblower Protections

Electronic mail dated April 16, 2002 from Katherine Havener to Ginny Vida, Mabel Ng, and Joe Lynn regarding feedback on lobbyist information on Commission web page

Correspondence dated April 10, 2002 from Ginny Vida to Evonne Zamora, Acting Registrar, Santa Clara County

Letter to editor of The San Francisco Independent dated April 9, 2002 by Commissioner Robert R. Planthold, titled "For the Record"

Article in The San Francisco Examiner dated April 10, 2002 by Frank Gallagher, titled "In the Redistricting Task Force, It's Business as Usual"

Article from the Associated Press dated April 11, 2002, titled "Clean Elections Spat Gets Personal"

Press release dated March 25, 2002 re campaign finance reforms proposed by Supervisor Mark Leno

Faxed correspondence dated April 24, 2002 from Fred Ridel, San Francisco Common Cause, to Ethics Commissioners regarding proposed amendments to Section 1.110(b) of the CFRO

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

No comment was offered.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of March 22, 2002.

Motion 02-04-24-1 (McCoy/Anglade): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of March 22, 2002 be approved.

IV. Executive Director's report

Executive Director Ginny Vida referred the Commission to her report and provided updates.

Ms. Vida introduced Shaista Shaikh, the Commission's former campaign finance auditor, who has been appointed Public Finance Administrator, with responsibility for overseeing the Commission's public financing program. Ms. Shaikh said that she would be holding a series of workshops on the public financing program starting on May 9 and extending through May, June, and July. She said that once a public financing auditor is appointed, she will train that person to conduct audits and to certify candidates who wish to participate in the program.

Ms. Vida said that there had been a noticeable decline in the number of lobbyists

registered with the Commission. She said that the press had speculated that the decline was due in part to the downturn in the economy.

Ms. Vida said that she had been asked by the Council on Governmental Ethics Laws (COGEL) to serve on a committee to solicit participation in a one-day meeting on September 29, 2002 in Ottawa, Canada, which will focus on municipal ethics programs and agencies. The meeting will be followed by COGEL's annual conference. Ms. Vida also advised that the 2004 annual COGEL conference, which is set to be held in San Francisco, will likely be held in December of that year.

V. Discussion and possible action re: 1) Approval of proposed terms of a licensing agreement between the Ethics Commission and the Department of Telecommunications and Information Services and the Santa Clara County Registrar's Office, by which Santa Clara County would purchase a license from the City of San Francisco to adopt San Francisco's On Line Filing Program for electronic reporting of campaign reports for use by Santa Clara County's campaign committees; and 2) Authorizing the Commission's Vice-Chairperson to approve further modifications in the terms of the agreement and to finally approve the licensing agreement.

There was general discussion about the terms of the agreement and whether the DTIS was offering terms to Santa Clara County similar to those it had offered other jurisdictions and clients in similar transactions. Ms. Vida noted that the cost of the system to Santa Clara was slightly higher than that to the City of Sacramento because enhancements had been added to the On Line Filing System since the system was licensed to Sacramento. Ms. Vida added that Santa Clara wanted to finalize an agreement during this fiscal year; thus, she asked that the Commission authorize the Vice-Chair to approve further modifications to and finally approve the agreement.

Motion 02-04-24-2 (Anglade/McCoy): Moved, seconded, and passed: that the proposed terms of the licensing agreement between the Ethics Commission and the Department of Telecommunications and Information Services and the Santa Clara County Registrar's Office be approved, with the proviso that Commission Vice-Chairperson Paul Melbostad be authorized to approve further modifications and the final agreement.

VI. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; whether to retain provision requiring Ethics Commission office to be open the Saturday before Election Day; and technical amendments.

At 9:25 a.m., Vice-Chairperson Paul Melbostad arrived and joined the meeting in progress.

Deputy Executive Director Mabel Ng outlined each of the proposed amendments to the CFRO in turn. The Commission considered each proposed amendment, starting with Section 1.104(a) and ending with Section 1.134(c), at which point the allotted time for the meeting had expired. Commissioner Planthold stated that the Commission would consider the remaining amendments at its next meeting.

With the exception of the amendments discussed below, the draft amendments were considered by the Commission without substantive questions or colloquy.

Section 1.104(c): Definitions - "City elective office." Commissioner Planthold asked whether the list of definitions of city elective office could be expanded to include offices of newly created agencies such as the Municipal Transportation Authority Board of Directors. Deputy City Attorney Claire Sylvia suggested that legislation concerning creation of future offices could identify them as city elective offices subject to the provisions of the CFRO.

Section 1.104(n): Definitions - "Qualified campaign expenditure." Commissioner Anglade asked that the draft amendment specify the applicable laws.

Section 1.104(p): Definitions - "Recorded telephone message." Commissioner Planthold asked whether the proposed language covered outgoing recorded messages advocating support of, or opposition to, a given candidate or measure (for example, if an individual were to call a number and get a voice mail or similar message saying "Don't forget to vote for/against X"). Ms. Sylvia pointed out that the language in this subsection is definitional and actually refers to a subsequent subsection, Section 1.163. She suggested that the issue of what the "recorded message" section covers could be addressed during discussion of that subsection.

Section 1.110(a): Campaign Statements - Public Access - Inspection and Copymaking. Commissioner Anglade recommended that language be included in this section to provide for public notice of any additional hours that the Commission's office may be open to allow for inspection and reproduction of records. Ms. Vida suggested that instead of opening the office the Saturday before an election, the Commission might extend office hours from 5 to 7 p.m. on the Friday prior to an election; that way, the public could review campaign files and the Commission would not have to incur the excessive costs associated with Saturday office hours.

Section 1.110(b): Campaign Statements - Public Access - Retention. In response to questions about what state law requires, Ms. Sylvia explained that state law (Government Code Section 81009) requires that campaign statements pertaining to mayoral and supervisorial officeholders (and their committees) be retained indefinitely; that statements from candidates and committees of candidates not successfully elected to the above offices be retained for five years; and that statements for other committees and officeholders not covered by the previous two categories be retained for a period of not fewer than seven years. She said that the proposed amendment will conform local law to state law while giving the Commission the discretion to retain records longer in accordance with the public's needs.

Ms. Vida noted the receipt of a letter from Fred Ridel of San Francisco Common Cause, which recommended that records be retained for no less than eight years. She also noted that the Commission's Record Retention Policy sets out different periods of retention for different documents.

After some discussion, Ms. Ng suggested that staff work on language to set out the state retention requirements, including changes to allow tracking of subsequent state amendments.

Section 1.114(d): Contribution Limits - Aggregation of Affiliated Entity Contributions. In response to questions about this section, Ms. Sylvia explained that the proposed subsection was drafted to conform with state law on aggregated contributions (Government Code Section 85311). Current law limits contributions to $500 per person per candidate; however, an individual may theoretically contribute much more, because the law defines an individual, a corporation in which the individual is a partner, and any other group and association to which the individual belongs as separate "persons," each of whom may contribute $500.

Ms. Vida said that one purpose of the law would be to limit the influence of contributions on the policy decisions of officeholders and to prevent contributors who own businesses from having more influence than those who do not. Ms. Sylvia proposed drafting a report for the next meeting with a range of examples for Commissioners to consider how best to define an affiliated entity.

Mike Mooney commented that his research into campaign statements indicated that a number of contributions flowed into recent local races from both individuals and the companies with which they were affiliated. He said it was clear to him that these types of contributions had a major influence on races. He applauded the Commission for proposing amendments to the CFRO and said that he hoped that the recommendations of Paul Ryan (of the Center for Governmental Studies) would be incorporated into the Commission's ultimate package.

Anita Mayo said that aggregation of contributions diminishes the ability of individuals and affiliated entities to participate in the political process.

Section 1.114(e): Contribution Limits - Contributor Information Required. There was discussion as to how this subsection would apply in situations in which three or more separate contributions from the same individual added up to over $100. Ms. Ng stated that the proposed amendment clarified that in such a situation, the check for the contribution which put the individual over the $100 limit could not be deposited unless the individual provided the requisite information.

Section 1.114(g): Contribution Limits - Return of Contributions. Ms. Vida said that this subsection had been changed to allow committees more time to determine whether they have contributions which must be returned to contributors (if the individuals have not provided address/employer/occupation information). Commissioner Planthold asked why the late contribution requirement was shortened from 48 to 24 hours, stating that most committees are pressed with other business during the late contribution period and may require more time to comply with the requirement. Ms. Ng advised that the revision conforms with state law. Vice-Chairperson Melbostad asked whether a contribution is deemed returned if it is placed in a mailbox with first-class postage within the specified time frame.

Ms. Mayo testified that she agrees with Commissioner Planthold that allowing 48 hours to return a late contribution gives committees more breathing room in the hectic period immediately prior to an election. Commissioners McCoy and Anglade said they agreed with keeping the current 48-hour cutoff unless there was a problem with compliance that needed to be addressed by shortening the requirement. Ms. Vida said that she was not aware of any compliance problems, but she added that the Commission does not currently have the staff to enforce this provision of the law. Mmes. Vida and Ng said that staff would check to determine whether the Commission could retain the 48-hour time limitation.

Section 1.114(h): Contribution Limits - Special Elections. Ms. Mayo pointed out that the language in this subsection does not clarify whether the "special election" referred to is a one-time-only election or an election with a runoff, and if the election is a one-time-only election, whether the $500 or $250 contribution limit applies.

Section 1.116: Limits on Loans to Candidates. Ms. Ng said that staff would research whether loans from family members constitute "personal loans."

Section 1.122(b): Solicitation or Acceptance of Campaign Contributions - Limitations - Use of Campaign Funds. Vice-Chairperson Melbostad asked whether the language in this subsection might unintentionally undo the effects of Proposition X, which abolished the use of so-called "Friends Of" committees to get around

contribution limits. Ms. Ng said that Proposition X eliminated separate officeholder accounts and required that all contributions to a candidate be deposited into one account. However, the proposition does not eliminate the use of campaign funds for officeholder expenses.

Ms. Vida said that this is a substantive issue for the Commission to consider, because a candidate who raises a large campaign fund, gets elected, and uses the surplus from the fund for officeholder expenses might benefit politically from employing a larger staff, more mailings to constituents, etc. Ms. Ng said that staff would provide examples of officeholder expenses to help clarify the issue.

Section 1.122(c): Solicitation or Acceptance of Campaign Contributions - Limitations - Surplus Funds. Commissioner Planthold asked how broad the geographical scope of the term "charitable organization" is. Is the term limited only to California entities? Vice-Chairperson Melbostad asked whether the term could include a charity for which the contributor works. Ms. Ng said that staff would look into these questions.

Section 1.134: Expenditure Ceilings Lifted. Ms. Vida said that the purpose behind the proposed changes in this subsection is to safeguard the integrity of the expenditure ceiling by lowering the reporting threshold for independent spending. Under current law, independent committees could spend significant amounts to influence a candidate race without having to report their spending. In the last election, for example, a committee could spend close to $43,750, or 25% of the applicable expenditure ceiling in the Public Defender's race, without being required to disclose that level of spending. Without sufficient information about expenditures made to support or oppose a candidate, the Commission does not know when to lift the expenditure ceiling or may lift it later than it should be lifted. This lack of disclosure may impact unfairly on candidates who are not supported by independent spending.

Ms. Vida added that replacing the percentage figure with a set round figure of $5,000 for trigger reporting would also spare committees the task of trying to ascertain what amounts of their expenditures have reached a certain percentage of the spending limit. Vice-Chairperson Melbostad said that it is important to take action on these proposed changes by the next meeting, if possible, to close the current loophole in the law.

Section 1.134(c): Expenditure Ceilings Lifted - Reporting. Vice-Chairperson Melbostad wanted to know why, once the ceiling has been lifted, the supplemental reporting requirement would be eliminated. Ms. Vida explained that the main purpose of supplemental reporting is to give the Commission information to determine when to lift the expenditure limit. After the spending limit is lifted, subsequent expenditures would be reported by campaigns in campaign statements required by the state.

Ms. Mayo pointed out that under Government Code Section 85312, payments for "member communications" are not considered contributions or expenditures, provided that they are not made for general public advertising. She asked whether state committees could be required to file reports with the Ethics Commission in addition to reports already required by state law.

Ms. Vida said that committees should be required to disclose their financial activity to San Francisco voters if they wish to influence local candidate elections. Ms. Ng added that it is crucial for the Ethics Commission to be able to capture expenditures for member communications in order to ensure the integrity of the electoral process. Vice-Chairperson Melbostad said that there is a major distinction between exempting

a newsletter to members of a political club and exempting a mass mailing to all registered local members of a political party.

Commissioner McCoy asked whether the proposal would be consistent with state law. Commissioner Planthold asked that staff clarify these issues.

Section 1.162: Independent Expenditures for Mass Mailings. Ms. Ng said that staff would prepare a report on the deletion of campaign literature and slate mailings from the draft amendment.

VII. Presentation by a representative of the Fair Political Practices Commission on the FPPC's investigation and enforcement procedures.

Steven Russo, Chief of Enforcement, Fair Political Practices Commission (FPPC), discussed the FPPC's investigation and enforcement process. The Enforcement Division of the FPPC has a staff that includes a Chief Investigator, nine attorneys, ten investigators, two political reform consultants, three accounting specialists, one analyst, and two clerical staff. In 2001, the Enforcement Division opened 770 cases for investigation, of which 160 were prosecuted (158 administratively and two through civil litigation).

The FPPC receives complaints and referrals from the Franchise Tax Board, district attorneys' offices, ethics boards and citizens. During the intake stage, the Enforcement Division completes an initial screening to decide whether a complaint merits full investigation. Most complaints do not make it to the stage of full investigation, because they involve: (a) technical violations that can be addressed with an advisory letter or warning letter; (b) violations that fall outside the agency's jurisdiction; or (c) general complaints from members of the public that do not constitute violations of the Political Reform Act.

If a complaint makes it to the investigation stage, it is assigned to a team consisting of an attorney and an investigator or an accounting specialist. The attorney works in tandem with the investigator or accounting specialist to determine what kind of violation the complaint alleges, what evidence must be acquired to prove the allegations in the complaint, and so on. The Executive Director of the FPPC has the authority to issue administrative subpoenas, although the Division generally tries to obtain voluntary compliance from entities before issuing subpoenas.

Once a full investigation is completed, the Enforcement Division evaluates the case to determine whether the complaint warrants prosecution, and if so, whether the complaint should be pursued civilly or administratively. Most complaints are prosecuted administratively. After this decision is made, the enforcement staff will attempt to settle the complaint with a civil or administrative stipulation. Settlements are subject to FPPC approval.

If a settlement is not reached, the Enforcement Division will prosecute the case by a civil or administrative action. In an administrative prosecution, the enforcement staff prepares a probable cause report, which is provided to the respondent. The probable cause report is submitted to the FPPC's Executive Director to make a determination regarding whether probable cause exists to believe that the respondent has violated the Political Reform Act as alleged by the Enforcement Division. The respondent may request a conference with the Executive Director before he makes a probable cause determination, and/or submit a written opposition to a probable cause finding. At a probable cause conference, the staff and the respondent present their case to the Executive Director. If the Executive Director finds there to be probable cause, an accusation is issued, and the case is heard by an administrative law judge. The FPPC must approve the ALJ's determination.

Mr. Russo said that the Enforcement Division recently instituted streamlined procedures for handling non-filers of Statements of Economic Interests, major donor reports, and late contribution reports. The procedures involve standardized referral forms for agencies and the public to use to report non-filers, fixed fine schedules, and simple, standardized stipulation documents. The fixed fine schedules specified fines per violation, based on specified criteria, such as how quickly the respondent files (as is the case for the Statements of Economic Interests Program), or the amount of dollars unreported (as is the case for the Late Contribution Reports Program). Any respondent who declines to participate in a streamlined program will then be prosecuted through the traditional administrative process.

Other than money laundering, the FPPC considers as serious violations of the Act conflicts of interest, the failure to report gifts, and late reporting of contributions. The Enforcement Division vigorously investigates money laundering cases by conducting pro-active investigations, and by assembling special investigative task forces to gather evidence where laundering is suspected.

Vice-Chairperson Melbostad noted that because of confidentiality requirements concerning complaints addressed by the Ethics Commission, the only way the public knows about the disposition of the vast majority of complaints is if there is a settlement or a probable cause finding. This may create an impression that all complaints are not being handled in a timely and expeditious manner. Commissioner Melbostad added that there has never been an instance in which the Commission failed to act on a complaint because of disagreement among commissioners about the complaint's validity. He asked Mr. Russo what constitutes a proper balance between ensuring due process for the respondent and failing to appear as though all complaints are being addressed expeditiously.

Mr. Russo said that there is no clear-cut answer. He said that the FPPC also receives many objections about the confidentiality of its complaint process. If the FPPC feels that it is important to make a case public quickly, the only avenue open to it is to move the case to civil litigation. He said that the FPPC places a high degree of importance on the value of confidentiality because of the enormous disadvantage that the complainant could fall under if leaks occur that breach the confidentiality of the complaint. The Division avoids advising a respondent of a complaint until it has had the chance to gather information. Some matters are closed without making any contact with a respondent. If a respondent is contacted during the course of an investigation, that respondent will either be advised that a prosecution will be initiated, or that the matter has been closed.

In addition, premature public disclosure of complaints may lead to abuse of the information in the complaints for political gamesmanship and leverage. Mr. Russo pointed out that the FPPC keeps complaints confidential even in after-the-fact public record requests, pursuant to California Evidence Code Section 1040, which provides that public entities may withhold official information if the interest of maintaining confidentiality in the name of justice outweighs the necessity for public disclosure. He added that once settlements are placed on the agenda, they are no longer confidential. The facts of a case not included in a stipulation would remain confidential unless revealed through a public record request, provided the facts are not privileged under the law.

Ethics Investigator/Legal Analyst Katherine Havener asked whether the Commissioners themselves become involved in the mechanics of lower-level decisions about the disposition of complaints. Mr. Russo said that the Commission does not manage the day-to-day workings of cases opened by the Enforcement Division. The Enforcement

Division decides whether a case lacks merit and should be closed, or whether the complaint should be prosecuted. Commissioners, who may ultimately act as judges, are removed from enforcement process until the case is presented to them with a stipulated settlement, a proposed administrative decision, or a request to file a civil lawsuit.

Ms. Havener asked for examples of violations that might merit a warning but no further action. Mr. Russo said that such violations would include relatively minor infractions, such as an innocent misunderstanding of the law or engaging in activity which leads to minimal public harm. In such instances, the Enforcement Division might send a letter to the violator stating that the violations will not be prosecuted, but if further violations come to the attention of the Division, the current violations may be used as aggravating information in the prosecution of the future violations.

Commissioner McCoy asked whether the FPPC considered mitigating factors during its investigation of cases. Mr. Russo said that mitigating factors are addressed throughout the process, including the probable cause stage.

Responding to a question from Commissioner McCoy, Mr. Russo said that the administrative judges who hear FPPC cases are selected by the Office of Administrative Hearings, a civil service office over which the FPPC has no control. He said that because cases that the FPPC ultimately selects for hearing are few in number and dispersed throughout the state, there is no specific pool of judges among whom the FPPC may choose and, as a result, the FPPC has to accept whomever the OAH selects.

Vice-Chairperson Melbostad asked whether cases in which complainants claim that they were not aware of the law are treated differently from others. Mr. Russo said that complaints are handled on a case-by-case basis, and investigators look at intent based on surrounding circumstances. He added that a candidate who runs for office has an obligation to know the rules.

Commissioner McCoy asked whether a claim from a respondent that conflicting advice was given by the FPPC itself would be taken into account. Mr. Russo said that it would, although he added that most advice given by the Technical Assistance Division is seldom mistaken and that most claims that the FPPC provided erroneous information turn out to be the result of the requestor having omitted the full story behind the request for advice.

Mr. Russo said that most cases are screened out early in the process. Opened files are given priority rankings based on how many other high-priority cases are currently open, the seriousness of the violation, and whether the case stands a chance of being prosecuted before the statute of limitations runs. Other cases are assigned a priority ranking based on the chance that the Enforcement Division will have the time and resources to get to them after the higher-priority files are handled.

Commissioner Planthold thanked Mr. Russo for taking the time to travel to San Francisco to share information about the FPPC's investigations and enforcement process. He said this information will be very helpful to the Commission as it considers possible changes in its own process for addressing complaints.

VIII. Discussion and possible action re: Items for future agendas.

There was no discussion of items for future agendas.

IX. Public comment on matters appearing or not appearing on the agenda that are

within the jurisdiction of the Ethics Commission.

There was no public comment.

X. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 1

No closed session was held.

XI. Discussion and vote on whether to disclose action taken or discussion held in closed session.

No closed session was held.

XII. Adjournment.

The Commission scheduled its next meeting for Thursday, May 30, 2002 at 5:30 p.m., pending room availability. (Room 416 City Hall was subsequently confirmed.)

Motion 02-04-24-3 (Anglade/McCoy): Moved, seconded and passed: That the Commission meeting be adjourned.

The meeting was adjourned at 12:00 noon.

Respectfully submitted,

_____

Frank M. Lester

Campaign Finance Assistant

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING AND AGENDA

Tuesday, May 7, 2002, 9:00 A.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

***Please note change in date and time.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.**

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 1

IV. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.**

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

V. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

VI. **Adjournment.**

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Thursday, May 30, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416*

***Please note change in date, time and location.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible approval of the minutes of the Ethics Commission meeting of April 24, 2002.**

IV. **Swearing in of new Ethics Commissioner. Superior Court Judge Kevin Ryan will administer the oath of office to Michael L. Garcia. The Board of Supervisors has designated Mr. Garcia as its appointee to the Ethics Commission.**

V. **Executive Director's report**
1. **Budget: FY 02 and FY 03**
2. **Controller's review of Commission mandates/budgetary needs**
3. **Implementation of limited public financing program**
4. **Legislative developments**
5. **Advice and opinions**
6. **Investigation and enforcement program**
7. **Report on volume of calls received via the Whistleblower Hotline**
8. **Campaign finance disclosure program**
9. **On-line filing program**
10. **Campaign finance audit program**
11. **Lobbyist program**
12. **Campaign consultant program**
13. **Statements of Economic Interests**
14. **Sunshine Declarations**
15. **Appointment of new Ethics Commission Members**
16. **Plans for COGEL conference in 2004**

VI. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; disclosure of payments for member communications; whether to retain provision requiring Ethics Commission office to be open the Saturday before Election Day; and technical amendments. The proposed amendments and a related staff report will be available from the Commission office and its web site on Tuesday, May 28.

VII. Discussion and possible action re: Drawing of lots by Commissioners to determine the length of term of each Commissioner. Under Proposition E, approved by the voters in November 2001, the first five members appointed to the Ethics Commission on or after February 1, 2002, must classify their terms by lot, so that the term of one commissioner expires at 12:00 noon on each of the second, third, fourth, fifth and sixth anniversaries of February 1, 2002.

VIII. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson, including whether to postpone nomination and election of officers to the next meeting.

IX. Discussion and possible action re: Amending the Candidates' Guide for Board of Supervisors to delete the requirement that candidates obtain the telephone number of contributors; and authorizing the Commission staff to make further changes to the Manual to reflect changes in the law, regulations, technical adjustments and staff advice.

X. Discussion and possible action re: Delegating to a Member of the Ethics Commission the authority (1) to review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) to review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public funding may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

XI. Discussion and possible action re: Setting dates for Commission meetings in June, July and August 2002.

XII. Discussion and possible action re: Items for future agendas.

XIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XIV. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 2

XV. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVI. Adjournment.

Know Your Rights Under the Sunshine Ordinance

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Ethics Commission

May 30, 2002

(Approved 6/10/02)

Minutes of the Special Meeting of the
San Francisco Ethics Commission
City Hall, One Dr. Carlton B. Goodlett Place, Room 416
May 30, 2002, 5:30 p.m.

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I. Call to order and roll call

Vice-Chairperson Paul Melbostad called the meeting to order at 5:40 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Vice-Chairperson; Michele Anglade, Commissioner; Waukeen Q. McCoy, Commissioner; Robert R. Planthold, Commissioner; Michael L. Garcia, Commissioner

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst; Janet Li, Assistant Legal Analyst

CITY ATTORNEY'S OFFICE: Claire Sylvia, Deputy City Attorney

OTHERS PRESENT: Hon. Kevin Ryan, Judge of the Superior Court; Hon. Matt Gonzalez, Member, San Francisco Board of Supervisors; Hon. Tony Hall, Member, San Francisco Board of Supervisors; Sean Elsbernd, aide to Supervisor Tony Hall; Anita Mayo, Pillsbury Winthrop; Mike Mooney.

MATERIALS DISTRIBUTED

Agenda for the Meeting of May 30, 2002

Executive Director's Report for the Meeting of May 30, 2002

Draft Minutes of the Meeting of April 24, 2002

Approved Minutes of the Meeting of March 22, 2002

Memo regarding proposed amendments to the Campaign Finance Reform Ordinance for May 30, 2002 meeting

Text of proposed amendments to the Campaign Finance Reform Ordinance

May 30, 2002 Letter from Anita Mayo to the Executive Director re: Proposed Amendments to San Francisco's Campaign Finance Reform Ordinance

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

The Commission considered the following matters out of their order on the agenda: items III, IV, XIV and XV. Item IV, swearing in of the newcomer was heard first to accommodate guests. The Commission then proceeded to items XIV and XV involving the closed session. The Commission then returned to item III. The minutes of these items are reported in the order they appear on the agenda.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of April 24, 2002.

Motion 02-05-30-1[1] (McCoy/Anglade): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of April 24, 2002 be approved as drafted.

IV. Swearing in of new Ethics Commissioner.

Superior Court Judge Kevin Ryan administered the oath of office to Michael L. Garcia, the newest member of the Commission, appointed by the Board of Supervisors. Supervisors Hall and Gonzalez welcomed the new Commissioner. Commissioner Garcia, who was sworn in at a private ceremony on May 21, 2002, said that he is honored and pleased to serve as Ethics Commissioner.

V. Executive Director's report

Executive Director Ginny Vida referred the Commission to her report and provided updates on the following:

Ms. Vida advised that Santa Clara County has transferred the funding for licensing the Commission's On Line Filing System to its fiscal year 03 budget. She said it appears likely that the Commission will be able to negotiate an agreement with Santa Clara County in the next fiscal year.

Ms. Vida said the Mayor's Budget Office had confirmed that the Mayor's FY 03 budget proposes a 3% reduction in the Commission's baseline budget. The Board of Supervisors could require further reductions. The Commission proposes to accommodate the 3% reduction by hiring the regular campaign finance auditor at about 75% of the regular hours, i.e., 30 hours instead of 40 hours per week.

Ms. Vida reported that the Mayor will propose approximately $30,000 in next year's budget to cover rent for the Commission's expansion to Suite 3500 at 30 Van Ness, next door to the Commission's current office. The Commission's budget will be considered by the Budget Committee from June 18th through June 25th. The Budget Analyst of the Board of Supervisors has asked the Commission to provide extensive information to his office by next Wednesday, June 5.

Commissioner Planthold asked about the following sentence on page 4 of the Executive Director's Report: "Although the fines must be further processed, the initial review indicates that there may be as much as $580,000 in such forfeitures." Commissioner Planthold expressed concern that the forfeiture amount seems high and asked whether it was due to lack of education about the new law. Ms. Vida explained that the Commission had taken steps to educate the regulated community through workshops and mailings to advise them of the need to obtain the names and addresses of contributors and the names of the contributors' employers if applicable.

Anita Mayo of Pillsbury Winthrop asked if there is a process in place so that a candidate or committee may amend a report if the occupation or employer information is lacking. Ms. Vida stated that because last year was the first year this new provision was implemented, the committees were offered a grace period to supply the information. This year, the Commission made a much more thorough education effort. She added that forfeitures would be required

unless there are mitigating circumstances that would justify a reduction.

In response to Commissioner Anglade's inquiry whether proactive steps were taken to identify lobbyists who need to be registered, Ms. Vida stated that in the past, the Commission has sent notices to department heads and other City officers regarding requirements for lobbyists to register, and asking people to forward the names of anyone they thought might need to register. Unfortunately, very few persons were identified based on the mailings. Katherine Havener, who administers the lobbyist program, stated that the definition of a lobbyist depends on the amount the person is paid and the number of contacts the person has made with a City officer, commission or board. She said that the only way to determine whether a person has met the threshold is to do an audit or have members of the board or commission voluntarily tell the Commission how many times they have been contacted by the person.

Ms. Vida stated that Grace Chau has been hired as the new Public Finance Auditor. Ms. Chau, who is very well-qualified, will be working with Shaista Shaikh, the Commission's Public Finance Administrator.

Ms. Vida stated that the Council on Governmental Ethics Laws is planning to have a conference in San Francisco on December 5- 8, 2004. There is concern that many of the city's hotels are expensive by COGEL standards. Thus far, the rates range from $109 to $209 per night. Between 200 and 300 people are expected at the COGEL meeting. The Commission staff is assisting COGEL in making hotel arrangements.

VI. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance.

Ms. Ng continued to present the staff's proposed amendments to the Campaign Finance Reform Ordinance. With the exception of the amendments discussed below, the draft amendments presented to the Commission did not generate substantive questions or colloquy.

Section 1.104(k) "Matching contributions."

Ms. Ng said that existing law is not clear on whether the candidate's own funds should be matched. Staff believes that contributions by a candidate to his or her own campaign should not be matched with public funds beyond the first $100 in qualifying contribution; i.e., if a candidate contributes $500 to his/her own campaign, the first $100 will be matched, the remaining $400 will not be matched. The proposed amendment also requires that the matching contribution be made by written instrument, to be consistent with the requirement for qualifying contributions and to enable staff to assess compliance.

Commissioner Planthold inquired about the definition of a resident. He asked whether students who move into the City each fall would qualify as residents. Deputy City Attorney Claire Sylvia stated that the ordinance does not contain a definition of "resident" and that the Commission can adopt one. Different definitions of "resident" exist for different purposes. Factors such as where an individual is registered to vote, where he or she resides or sleeps, or where he or she has a driver's license, are looked at. A student who opens a checking account may be a resident; the student who leaves tomorrow may no longer be a resident.

Ms. Ng stated that staff had spoken with public finance staff in New York City and Tucson, two public financing jurisdictions with residency requirements. Neither city requires formal documents to show that someone is a resident. Usually, a contributor who does not have a check fills out a form providing his or her address and signs the form.

Commissioners expressed concern that requiring matching contributions to be made by written instrument may deter grassroots fundraising. Ms. Ng stated that contributors who have no access to a checkbook may ask someone else to submit a check on their behalf. The Commission will accept the matching contribution provided that the contributor provides information stating that the contribution came from the contributor and that the contributor is a resident of San Francisco.

Ms. Vida noted that because these are public funds, the Commission wants to make sure that people are entitled to them. Commissioner Garcia suggested that any information card that accompanies the cash be uniform in format.

Section 1.114(d): Contribution Limits- Aggregation of Affiliated Entity Contributions.

Ms. Ng stated that the staff memo provides samples of how state law works in terms of aggregating contributions. Under state law, if there are two partners who each owns 50 percent of a business and neither one actually controls, each partner may contribute $500 to a candidate and the firm may also contribute an additional $500. Ms. Ng stated that the state model focuses on actual control. The Los Angeles (LA) model focuses on potential control. Thus, where a partner has a third of an interest in an entity, the entity contribution may be aggregated with the partners' own contribution so that together, the partner and entity could contribute only $500. Ms. Ng stated that LA is proposing a change to its law.

Commissioner McCoy asked that the proposed amendments include more specific examples so that it is not open to different interpretations. Commissioner Garcia suggested changing the language of "controlling interest" to "majority interest," which has to be 51% or more. Commissioner Anglade agreed that it would be helpful to work with the proposed amendment and fine-tune it with examples.

Commissioners McCoy and Planthold asked if staff would obtain more information from LA about how their law works and why they are recommending changes.

Mike Mooney testified that he believes that either the state or LA model will serve to prevent an individual and his or her corporation or holding company from contributing more than the contribution limits.

Section 1.114(g): Contribution Limits-Return of Contributions

Ms. Mayo stated that under the state law, a contribution is not deemed received if it is returned within a certain period of time. The proposed amendment only regulates the return of contributions that support or oppose a candidate. She asked if there is a similar provision that regulates the return of contributions to committees that support or oppose ballot measures. Ms. Sylvia stated that ballot measure committees are governed by state law and that the Commission could add language to state that.

Ms. Mayo presented her letter to the Commission, dated May 30, 2002, which sets forth her concerns about the proposed amendments. Ms. Ng also identified some sections which Commission members should review for the next meeting.

Section 1.138(e): Election Campaign Fund; Appropriation of Funds.

Ms. Vida reported that she and Vice-Chairperson Melbostad had met with Ben Rosenfield of the Mayor's Budget Office. Mr. Rosenfield asked if the Commission could defer action of this section because of the City's concern that there may not be sufficient funds in the next fiscal year.

The Commission, by consensus, asked that staff delete paragraph (e) from Section 1.138.

VII. Discussion and possible action re: Drawing of lots by Commissioners to determine the length of term of each Commissioner. Under Proposition E, approved by the voters in November 2001, the first five members appointed to the Ethics Commission on or after February 1, 2002, must classify their terms by lot, so that the term of one commissioner expires at 12:00 noon on each of the second, third, fourth, fifth and sixth anniversaries of February 1, 2002.

Ms. Vida stated that under Proposition E, approved by the voters, the commissioners' terms are

staggered so that their terms do not expire all at once. The terms expire at noon in 2004, 2005, 2006, 2007, and 2008, respectively. Ms. Vida folded up the sheets of paper with term expiration dates. The Commissioners then drew the lots from left to right, according to how they were seated. Commissioner McCoy picked first. His term will expire at noon on February 1, 2006. Vice-Chairperson Melbostad's term will expire at noon on February 1, 2007. Commissioner Planthold's term will expire at noon on February 1, 2004. Commissioner Anglade's term will expire at noon on February 1, 2008. Commissioner Garcia's term will expire at noon on February 1, 2005.

VIII. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson, including whether to postpone nomination and election of officers to the next meeting.

Commissioner Planthold proposed that an election of officers occur at today's meeting. Commissioner McCoy requested that the elections be deferred until the next meeting. Responding to a question from Commissioner McCoy, Ms. Vida advised that a Commissioner may place his/her own name, or someone else's name, in nomination for a Commission office. The appointment is for a one-year term. Commissioner Anglade stated that election of officers should be postponed to allow the newest member to become better acquainted with the Commission members. Commissioner Garcia stated that he was willing to go forward with the election or delay it. He expressed doubt, however, that he would know anyone better by the next Commission meeting.

Commissioner Planthold moved for the nomination and election of the offices of Chairperson and Vice-Chairperson. The motion was not seconded. Accordingly, the election was deferred to the next meeting.

IX. Discussion and possible action re: Amending the Candidate's Guide for Board of Supervisors to delete the requirement that candidates obtain the telephone number of contributors; and authorizing the Commission staff to make further changes to the Manual to reflect changes in the law, regulations, technical adjustments and staff advice.

Ms. Vida stated that there were some concerns expressed by candidates' treasurers about obtaining the telephone numbers of contributors for the public financing program. She said that Shaista Shaikh, the Commission's Public Finance Administrator, had confirmed that audits can be conducted without that information. Ms. Vida said that requiring candidates to provide the telephone numbers of contributors may discourage contributions and undermine the success of the public financing program.

Vice-Chairperson Melbostad asked what prompted the proposed amendment to delete the phone numbers. Ms. Ng stated that some attendees at the Commission's public financing workshops had expressed concerns about the confidentiality of contributors' phone numbers because the reports are public documents.

Commissioner McCoy expressed some concern about the second portion of the proposal to allow staff to make technical changes to the manual to reflect changes in the law and regulations that the Commission has approved. He stated that he would like to review proposed changes to the manual. Ms. Vida stated that changes in the manual would reflect changes in the law or regulations that had been approved by the Commission and the Board of Supervisors. Ms. Ng added that staff would like to be able to make adjustments to manuals so that changes go out to members of the public quickly and the Commission's time is not taken up with non-substantive changes.

Motion 02-05-30-4 (Garcia/Planthold): Moved and seconded: that item nine on the agenda be approved (Ayes: Garcia, Planthold. Nays: McCoy, Anglade)

Commissioner Garcia withdrew his motion and moved to divide the proposals.

Motion 02-05-30-4: (Garcia/Planthold): Moved, seconded, and unanimously passed: amending the Candidate's Guide for Board of Supervisors to delete the requirement that candidates obtain the telephone number of contributors.

Ms. Ng stated that it has been staff's practice to make changes to the Commission's various manuals to reflect changes in local and state law and Commission regulations, and that it was inadvertent on staff's part to propose the second portion of the item on the agenda. She suggested that the Commission not consider it. The Commission did not act on the second portion of item 9.

X. Discussion and possible action re: Delegating to a Member of the Ethics Commission the authority (1) to review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) to review appeals from a rejection of a claim for public funds.

This item was continued until the June 10 meeting. Commissioner Planthold asked for information about what the appeals process involves (appeals criteria) and the timeline for staff action on appeals. He agreed that delegating the task to one member is more efficient.

XI. Discussion and possible action re: Setting dates for Commission meetings in June, July and August 2002.

The Commission scheduled its next meeting for Monday, June 10, 2002 at 5:30 p.m., pending room availability.

The Commission scheduled meetings for Monday, July 15, 2002 at 5:30 p.m. and Monday, August 19, 2002 at 5:30 p.m., pending room availability.

XII. Discussion and possible action re: Items for future agendas.

There was no discussion.

XIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XIV. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 2

Shortly after Commissioner Garcia was sworn in, Vice-Chairperson Paul Melbostad suggested a brief closed session to continue a matter on the closed session agenda.

The Commission adjourned to a closed session at 5:45 p.m. The Commission convened in open session at 6:05 p.m. The Commission again adjourned to a closed session at 8:13 p.m. The Commission again convened in open session at 8:55 p.m.

XV. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

The Commission found that it is in the best interests of the public not to disclose its closed

session deliberation re: pending litigation.

XVI. Adjournment.

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

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Janet Li

Assistant Legal Analyst

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[1] Motions may not be listed in the actual order in which they were made at the meeting.

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Ethics Commission

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Monday, June 10, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408

***Please note change in time.**

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of May 30, 2002.

IV. Executive Director's report
1. Budget: FY 02 and FY 03
2. Implementation of limited public financing program
3. Legislative developments
4. Advice and opinions
5. Investigation and enforcement program
6. Report on volume of calls received via the Whistleblower Hotline
7. Campaign finance disclosure program
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13. Sunshine Declarations
14. Plans for governmental ethics (COGEL) conference in 2004

V. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including, but not limited to, provisions regarding contributions from affiliated entities; application of contribution limits to District elections; threshold(s) for lifting the voluntary spending limits; threshold(s) for disclosure of independent spending; disclosure of payments for member communications; whether to retain provision requiring Ethics Commission office to be open the Saturday before Election Day; and technical

amendments. The proposed amendments and a related staff report are available from the Commission office and its web site at www.sfgov.org/ethics/.

VI. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson.

VII. Discussion and possible action re: Whether the Ethics Commission as a whole or a Member of the Commission should (1) review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public funding may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

VIII. Discussion and possible action re: Amending Commission Regulations 1.142(a)-2 and 1.144(c)-1(c)(3) to eliminate the requirement that publicly funded candidates for the Board of Supervisors disclose the telephone numbers of contributors.

IX. Discussion and possible action re: Setting dates for Commission meetings in July, August and September 2002.

X. Discussion and possible action re: Items for future agendas.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 2

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIV. Adjournment.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the SF Admin. Code) or to report a violation of the ordinance, contact Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683. Telephone: (415) 554-7724; Fax: (415) 554-7854; E-mail: Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Sunshine Task Force, the San Francisco Public Library and on the City's web site at www.ci.sf.ca.us

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Ethics Commission

June 10, 2002

(Approved as Amended 6/20/02)
Amendments in italics

Minutes of the Special Meeting of the San Francisco Ethics Commission
City Hall, One Dr. Carlton B. Goodlett Place, Room 408
June 10, 2002, 5:30 p.m.

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I. Call to order and roll call

Vice-Chairperson Paul Melbostad called the meeting to order at 5:38 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Vice-Chairperson; Michele Anglade, Commissioner; Waukeen Q. McCoy, Commissioner; Robert R. Planthold, Commissioner; Michael L. Garcia, Commissioner

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst

CITY ATTORNEY'S OFFICE: *Claire Sylvia, Deputy City Attorney*

OTHERS PRESENT: Anita Mayo, Pillsbury Winthrop; Fred Ridel, Common Cause; Andy Draheim, San Francisco Common Cause.

MATERIALS DISTRIBUTED:

Agenda for the Meeting of June 10, 2002

Executive Director's Report for the Meeting of June 10, 2002

Draft Minutes of the Meeting of May 30, 2002

Approved Minutes of the Meeting of April 24, 2002

Memo regarding proposed amendments to the Campaign Finance Reform Ordinance for June 10, 2002

meeting

Text of proposed amendments to the Campaign Finance Reform Ordinance

June 6, 2002 memo from Executive Director Ginny Vida regarding technical amendment of

Commission regulations relating to public finance program

June 6, 2002 memo from Executive Director Ginny Vida regarding appeals process for public funds

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Andy Draheim of San Francisco Common Cause stated that Common Cause received a grant from the San Francisco Foundation to run a public education campaign about the public financing program. He stated that over the next year, Common Cause plans to build support for the public financing program among candidates and the public. After the 2002 elections, they will evaluate how the program worked, and will develop recommendations as to how to improve the system. He stated that he would welcome advice from the Commission and staff as to how to reach all San Francisco constituencies.

III. Discussion and possible approval of the minutes of the Ethics Commission meeting of May 30, 2002.

Motion 02-06-10-1 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the minutes of the Ethics Commission meeting of May 30, 2002 be approved as drafted.

IV. Executive Director's Report

Executive Director Ginny Vida referred the Commission to the Executive Director's report. In addition, Ms. Vida stated that she will appear before the Budget Committee on June 11, 2002 to discuss the Mayor's proposal for interim funding (funding from July 1 through September 30) for the Commission's five public finance positions. The Budget Analyst has proposed funding for three positions that are currently filled (Public Finance Administrator, Public Finance Auditor, Public Finance Clerk), but has proposed that the Assistant Legal Analyst (Assistant Investigator) and Public Finance Auditor Clerk should not be funded on an interim basis. Ms. Vida stated that while the Commission can wait until October 1 for the Auditor Clerk position to be funded, it is very important that the Assistant Legal Analyst position be filled as of July 1. She explained that there have already been a couple of Prop O-related complaints filed, and that staff expects a great many more during the campaign season. During the last supervisorial election, the number of complaints doubled during the election season.

Ms. Vida also referred the Commission to five proposed Charter amendments the Board of Supervisors submitted to the Commission earlier today for comment. She indicated that one of the amendments requires the Commission to set the salaries of members of the Board of Supervisors. She stated that the Commission's response is due by June 26, and that if the Commission wants to address the proposed amendments in time to be considered by the Rules Committee, the Commission may want to schedule a special meeting. Commissioners Melbostad and Planthold agreed that this item should be calendared for a special meeting.

Fred Ridel of Common Cause stated that Common Cause recommends that the Ethics Commission not be involved with the setting of Board salaries due to the perceived conflict of interest. He suggested that Board salaries be based upon a percentage of the salaries received by Superior Court Judges or the Mayor.

The Commissioners expressed interest in having their own e-mailboxes when the Commission obtains access to the City's new email system.

V. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance.

Commissioner Melbostad stated that at the Commission's May 30 meeting, the Commission agreed that the CFRO amendments would be voted on en masse via a single vote, unless a member or members request separate consideration of specific amendments. In such a case, those amendments would be deliberated and voted upon separately. He stated that the

Commission should consider the May 30, 2002 amendments as amended by staff's June 10, 2002 memo. He asked the Commissioners whether there were amendments they would like removed for separate consideration.

Commissioner Planthold requested that Sections 1.110(b), 1.114(d), and 1.134 be removed. Commissioner Anglade requested that Section 1.170 be removed as well.

Anita Mayo of Pillsbury Winthrop stated that the Commission's proposal treats two-person partnerships differently than other entities. Other entities will be subject to the "direct and control" test as applied under state law. However, the Commission is carving out an exception for two-person entities, and this exception may cause confusion in the regulated community. Ms. Mayo also referred the Commission to her May 30, 2002 memo regarding the proposed amendments on penalties, which she believes are much too high compared to what they were before.

Deputy Director Mabel Ng informed the Commission that in addition to the amendments contained in the May 30 and June 10 memos, staff suggests that the Commission approve the following technical changes to the proposed amendments:

· on page 1, lines 16-18, delete the text "amending section 1.138 to provide that money remaining in the Election Campaign Fund and interest accruing on such money shall remain in the Fund;"

· on page 2, line 7, delete the references to Sections 1.136, 1.138 and 1.140;

· on page 5, line 19, delete the period after the word "office;"

· on page 10, line 11, insert the word "or" after the word "Mayor" and before the term "$35,000;"

· on page 14, lines 12, change the words "makes" and "incurs" to "make" and "incur," respectively;

· on page 15, line 2, delete the comma between "expenditures and "incurs" and insert "or" in its place, so that the text reads "makes expenditures or incurs expenses;"

· on page 25, line 15, delete the word "either" and move the period from line 16 to line 15 after the word "advice."

Motion 02-06-10-2 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the technical amendments suggested by staff be approved.

Motion 02-06-10-3 (Planthold/McCoy): Moved, seconded, and unanimously passed: that the amendments to the Campaign Finance Reform Ordinance be adopted except for Sections 1.110(b), 1.114(d), 1.134, 1.170, which will be considered and voted upon separately.

Deputy Director Ng informed the Commission that the proposed amendments do not contain an effective date. She stated that staff recommends that the effective date be January 1, 2003 to avoid confusion during the 2002 elections. Commissioner McCoy indicated that if the amendments clarify the law, it would make sense to make them effective as soon as possible. Ms. Ng explained that if the amendments were made effective in the middle of the election, it would be unfair to candidates. For example, current law requires candidates to obtain qualifying contributions via written instrument. If the amendments were effective prior to the election, it would be unfair to candidates who have raised contributions via written instrument, because cash contributions may be easier to obtain. Ms. Vida pointed out that the Commission has already conducted two workshops explaining existing law.

Motion 02-06-10-4 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the effective date of the amendments be January 1, 2003.

Commissioner Planthold suggested that the Commission defer discussion of the proposed amendments to sections 1.110(b), 1.114(d), 1.134, 1.170 until a special meeting scheduled for June 20, 2002 at 5:30 p.m. or June 21, 2002 at 4:30 p.m. The Commission agreed by consensus to defer discussion of these sections until the special meeting.

[At this point, the Ethics Commission adjourned into closed session under Agenda Items XII and XIII. The minutes of these items are reported in the order they appear on the agenda.]

VI. Discussion and possible action re: Nomination and election of candidates for the positions of Chairperson and Vice-Chairperson.

Commissioner McCoy nominated Commissioner Anglade for the position of Chair, and Commissioner Garcia seconded the nomination. Commissioner Planthold nominated Commissioner Melbostad for the position of Chair, and Commissioner Anglade seconded the nomination. After some discussion, a vote was taken. Commissioners McCoy and Anglade voted for Commissioner Anglade for Chair. Commissioners Planthold, Garcia and Melbostad voted for Commissioner Melbostad for Chair. Commissioner Melbostad was elected Chair.

Commissioner Garcia nominated Commissioner Planthold for the position of Vice-Chair, and Commission Anglade nominated Commissioner McCoy for the position of Vice-Chair.

Commissioner Melbostad seconded the nomination of Commissioner Planthold. After some discussion, a vote was taken. Commissioners Anglade and McCoy voted for Commissioner McCoy for Vice-Chair. Commissioners Melbostad, Garcia and Planthold voted for Commissioner Planthold for Vice-Chair. Commissioner Planthold was elected Vice-Chair.

VII. Discussion and possible action re: Delegating to a Member of the Ethics Commission the authority (1) to review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) to review appeals from a rejection of a claim for public funds.

This item was continued until the June 20 or June 21 special meeting.

VIII. Discussion and possible action re: Amending Commission Regulations 1.142(a)-2 and 1.144(c)-1(c)(3) to eliminate the requirement that publicly funded candidates for the Board of Supervisors disclose the telephone numbers of contributors.

Motion 02-06-10-5 (Planthold/Garcia): Moved, seconded, and unanimously passed: that Commission Regulations 1.142(a)-2 and 1.144(c)-1(c)(3) be amended to eliminate the requirement that publicly funded candidates for the Board of Supervisors disclose the telephone numbers of contributors.

IX. Discussion and possible action re: Setting dates for Commission meetings in July, August and September 2002.

The Commission scheduled meetings on July 15, 2002 at 6 p.m. or 6:30 p.m. and August 19, 2002 at 6:30 p.m.

X. Discussion and possible action re: Items for future agendas.

Commissioner Planthold requested that the Board's proposed Charter amendments be placed on the June 20 or June 21 special meeting agenda. Commissioner Planthold asked staff to provide input and recommendations with regard to the proposed amendments.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XII and XIII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation; Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion 02-06-10-6 [1] (Planthold/Garcia): Moved, seconded, and unanimously passed: that the Commission adjourn into closed session.

The closed session was held from 6:30 p.m to 7:35 p.m.

Motion 02-06-10-7 (Garcia/Anglade): Moved, seconded, and passed on a vote of three to one (Commissioner McCoy opposing): that the Commission disclose actions taken in closed session, but not closed session discussions.

Dan Purnell, Executive Director of the Oakland City Ethics Commission, stated that pursuant to the San Francisco Ethics Commission Regulations for Investigations and Enforcement Proceedings, he had conducted a preliminary inquiry into Ethics Complaint Number 11-010828. The complaint alleged that Respondent Paul Melbostad violated San Francisco Charter Section 15.100 and Article III, Section 3 of the Bylaws of the San Francisco Ethics Commission. On a vote of three to one, the Commission approved settlement of the complaint for a fine in the amount of $500.

After Mr. Purnell's announcement, the Commission resumed its closed session at 7:41 p.m.

Motion 02-06-10-8 (Planthold/McCoy): Moved, seconded, and unanimously passed: that the Commission adjourn into closed session.

The closed session was held from 7:41 p.m. to 8:18 p.m.

Motion 02-06-10-9 (Planthold/Garcia): Moved, seconded, and passed: that the Charter provides that deliberations regarding complaints are confidential. Pursuant to Charter section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

Commissioner Planthold requested that a closed session be held at the June 20 or June 21 special meeting for further consideration of pending litigation.

XIV. Adjournment.

Motion 02-06-10-10 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Commission adjourn the meeting.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

_____

Katherine C. Havener

Ethics Investigator/Legal Analyst

\\ETHICS-01SVR\DATA\SHARED\MINUTES\2002\06.10.02.doc

[1] Since the Commission took agenda items XII and XIII out of order, motions contained in this section are not listed in the actual order made at the meeting.

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Ethics Commission

June 20, 2002

(Approved 8/9/02)

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Minutes of the Special Meeting of the San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 421
June 20, 2002, 5:30 p.m.

I. Call to order and roll call

Chairperson Paul Melbostad called the meeting to order at 5:34 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michele Anglade, Commissioner; Michael L. Garcia, Commissioner; Waukeen Q. McCoy, Commissioner.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst; Shaista Shaikh, Public Finance Administrator

OTHERS PRESENT: Rob Eshelman, Legislative Aide for Supervisor Matt Gonzalez

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney

MATERIALS DISTRIBUTED:

Agenda for the Meeting of June 20, 2002

Executive Director's Report for the Meeting of June 20, 2002

Draft Minutes of the Meeting of June 10, 2002

Approved Minutes of the Meeting of May 30, 2002

June 17, 2002 memo from Executive Director Ginny Vida regarding Proposed Charter Amendments

Text of proposed charter amendments-file numbers 010961, 020884, 011654, 011957 and 020882

June 17, 2002 memo from Executive Director Ginny Vida regarding Previous Correspondence re Charter Amendments

Memo regarding proposed amendments to the Campaign Finance Reform Ordinance for June 20, 2002

meeting

Text of proposed amendments to the Campaign Finance Reform Ordinance

June 12, 2002 memo from Executive Director Ginny Vida regarding Appeals Process for Public Funds

II. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Motion 02-06-20-1(Planthold/Garcia): Moved, seconded, and unanimously passed: that the Commission adjourn into closed session.

The closed session was held from 5:30 p.m. to 6:07 p.m.

III. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

The Commission resumed its open session meeting at 6:30 p.m.

Motion 02-06-20-2 (Garcia/McCoy): Moved, seconded, and unanimously passed: that the Ethics Commission disclose the actions taken in closed session.

Executive Director Ginny Vida announced the settlement of complaint number 13-991013 filed against Fred Hamdun, P. J. Johnston, and Barry Wyatt. Based on a complaint filed with the Ethics Commission, the Ethics Commission staff alleged that Respondents violated the San Francisco Campaign Consultant Ordinance by failing to register as campaign consultants and report their campaign consultant activity. Respondents admit no wrongdoing. Respondents agree to register as campaign consultants, pay the appropriate registration fees, and pay an amount as late fees.

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

V. Discussion and possible approval of the minutes of the Ethics Commission meeting of June 10, 2002.

Commissioner Michele Anglade requested that the reference under Item VI. to her seconding the nomination of the Chair be deleted because a second is not required on nominations for officers and that she did not second the nomination.

Deputy City Attorney Claire Sylvia asked that the minutes note the presence of the City Attorney's staff.

Deputy Executive Director Mabel Ng reported that Anita Mayo stated that she could not attend the meeting, but requested that Ms. Ng convey her comments. Ms. Ng noted that at the June 10, 2002 Commission meeting, Ms. Mayo made comments regarding the aggregation provision regarding partnerships. However, her comments are not reflected in the draft minutes. Her comments were that the Commission's

proposal treats two-person partnerships differently than other entities. Other entities will be subject to the "direct and control" test as applied under state law. However, the Commission is carving out an exception for two-person entities, and this exception may cause confusion in the regulated community. Ms. Ng stated that Ms. Mayo wanted to refer the Commission to Ms. Mayo's May 30, 2002 memo regarding the proposed amendments on penalties, which she believes are much too high compared to what they were before. Ms. Ng noted that Ms. Mayo's comments should appear before the last paragraph of page two of the draft minutes of June 10, 2002 meeting.

Commissioner Waukeen Q. McCoy requested that motion 02-06-10-9 reflect that he dissented.

Motion 02-06-20-3 (Planthold/Melbostad): Moved, seconded, and unanimously passed: that the minutes of the June 10, 2002 meeting be approved, as amended.

VI. Executive Director's Report

Ms. Vida reported that the Board of Supervisors voted to give the Commission interim funding, from July 1 to September 30, for the Assistant Investigator position. Ms. Vida further reported that Budget Analyst Harvey Rose recommended that the Public Finance Auditor Clerk position be funded at .5 with temporary funds. Mr. Rose also recommended that the Commission increase its attrition savings by $6,200. After conferring with Public Finance Administrator Shaista Shaikh, Ms. Vida reached agreement with the Budget Analyst to fund the Auditor Clerk position at .5 FTE but not to increase the Commission's attrition savings.

Ms. Vida thanked Chairperson Melbostad and Commissioner Planthold for their support at the Budget Committee hearings.

VII. Discussion and possible action re: Proposed Charter Amendments presented by Members of the Board of Supervisors.

Chairperson Melbostad stated that the Clerk of the Board has forwarded to the Commission several proposed amendments to the Charter, and has asked that the Ethics Commission provide comment by June 26, when the Rules Committee will consider the proposed amendments. He invited Rob Eshelman, legislative aide to Supervisor Gonzalez, to comment on the two amendments concerning the salaries of the Board members.

File No. 010961

Mr. Eshelman reported that Supervisor Gonzalez will table this Charter amendment, which proposes that the Ethics Commission set the salaries for members of the Board of Supervisors.

File No. 020884

Mr. Eshelman explained that this Charter amendment recognizes that the job of a member of the Board of Supervisors is a full-time position. He also stated that the Charter amendment addresses a flaw in the City Charter that sets the salaries of members of the Board of Supervisors positions differently than for other City elective offices. Mr. Eshelman added that Supervisor Gonzalez has agreed to staff's proposed amendment, which calls for the Civil Service Commission, not the Department of Human Resources, to conduct salary surveys.

In response to Commissioner Planthold's question whether the Commission should

comment on the proposal, Ms. Vida said that she considers the subject of the proposal to be an ethics issue because it is in the public interest to have a pool of candidates who can make themselves available to perform the duties required of a member of the Board rather than to have a pool who must focus their energies elsewhere in order to earn enough to afford to live in the City. Chairperson Melbostad also noted that when salaries are too low, officials may be tempted to accept gifts, contributions or other means to pay their living expenses. He stated that in the past, friends' committees were used to pay for Supervisors' living expenses. He stated that under the current salary, supervisors must be wealthy or willing to live an impoverished life, or they hold outside employment. He reported that in some cases, the supervisor's employer may pay a full-time salary even though the supervisor does not work full-time for the employer. Mr. Eshelman added that outside employment may create a conflict of interest and may also cause supervisorial duties to be inadequately performed because the job of a supervisor demands full-time commitment.

Commissioner McCoy stated that he believed that the voters should set the supervisors' salaries. Mr. Eshelman explained that by placing the proposal on the ballot, the issue will be put before the voters. He added that by having the CSC set the supervisors' salaries, the voters would make the process for determining the supervisors' salaries consistent with the process that is applied to all other City elective offices. Chairperson Melbostad noted that if the voters are asked to set the supervisor's salaries, they could perceive the vote as a referendum on the current supervisors.

Commissioner McCoy questioned whether a higher salary would prevent undue influence when a supervisor is prone to inappropriate dealings. He asked why the voters set the Board's salary initially. Mr. Eshelman explained that Supervisor Ammiano placed the issue on the ballot in 1988 in order to increase the Board's salary to approximately $37,500. Supervisor Ammiano chose that approach at that time rather than another approach; that was why the voters were given the option to determine the supervisors' salary. Chairperson Melbostad added that a supervisor's job used to be part-time but that the responsibilities of the position have increased tremendously; for instance, the Board deals with a $5 billion budget. He said that all current members work full time.

Commissioner Planthold noted that a commensurate salary would allow for a broader range of candidates. Commissioner Anglade stated that designating the position as full-time might narrow the pool of available candidates, particularly if the salary adopted is in the $50,000-$60,000 range. She also questioned whether a full-time designation might mean you get only full-time politicians, not homemakers or teachers, etc.

Commissioner Garcia noted that recognizing that supervisors' jobs are full-time and providing adequate compensation for supervisors are important in order to achieve better government. Mr. Eshelman stated that it is important for the Ethics Commission to provide comment on what he also perceives to be a good government issue. He explained that without adequate compensation, conflicts may arise.

In response to Commissioner Anglade's request for clarification on the effect of a vote by the Commission, Ms. Vida advised that the Commission will be providing comment to the Rules Committee; if the proposal passes out of Rules, it'll be before the full Board. She added that the Civil Service Commission supports the proposal and that she has not heard from other departments.

Chairperson Melbostad stated that it is appropriate for the Commission to take a position. One of the underlining purposes of the Campaign Finance Reform Ordinance, the Lobbyist Ordinance and the Campaign Consultant Ordinance is to prevent

corruption or the appearance of corruption; that is, that no policy decision should be made due to the influence of money. Commissioner McCoy stated that officials do not serve the public due to salary but due to their interest in serving the public. He added that the Commission's focus should not be setting salaries. Commissioner Garcia stated that he does not see the Commission as involved in setting salaries; rather, he perceives the Commission's role as fostering good government by recognizing that the position of a member of the Board is a full-time position.

Motion 02-06-20-4 (Garcia/Planthold): Moved, seconded, and passed on a vote of three to two (Commissioners McCoy and Anglade opposing): that the Commission recommends that the proposal, as amended, be adopted by the Rules and Audits Committee and forwarded to the Board of Supervisors to be placed on the ballot before the voters.

File Numbers 011654 and 011957

Commissioner Melbostad questioned whether the Public Advocate would monitor government ethics or efficiency. He noted that the Commission already operates a whistleblower program. Ms. Vida reported that stated that as a result of a scandal in New York City, the office of Public Advocate was created there. She said that Supervisor Daly proposed creating this office to deal with constituent issues, such as fixing potholes, that take up a lot of a supervisor's time.

Commission members expressed concern about the provisions in the proposal that would give the Public Advocate access to the Commission's closed meetings, that the proposal appears to be very broad, that the mandates of the Public Advocate may overlap with those of the Commission, and that the provisions call for oversight of the Commission.

Motion 02-06-20-5 (Melbostad/Garcia): Moved, seconded, and unanimously passed: that the Ethics Commission recommends against approval of the Charter amendments as written because the Commission concludes that it is not in the public interest to have a Public Advocate with the authority to attend closed sessions of the Ethics Commission. The Commission further recommends against these amendments to the extent that the Public Advocate would impinge on the functions of the Ethics Commission.

File Number 020882

Ms. Ng reported that Supervisor McGoldrick's staff has advised that the proposed amendment will be amended such that the Auditor General will not be an ex-officio member of the Commission or attend closed sessions of the Commission. Thus, but for the sentence, "May introduce legislation to improve City programs and services and make government more efficient," the remaining text in proposed section 6.108(4) will be deleted.

Commissioner Planthold raised concerns about the Auditor General's authority to access the Commission's records, including those related to investigations and personnel records. The Commission was unclear as to what the Auditor General's jurisdiction and mandates are and whether they overlap with the Commission's jurisdiction and mandates.

Motion 02-06-20-6 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the Ethics Commission recommends against approval of the Charter

amendment as written to the extent that the Auditor General would impinge on the functions of the Ethics Commission.

Motion 02-06-20-7 (Garcia/Anglade): Moved, seconded, and unanimously passed: that Motion Numbers 02-06-20-5 and 02-06-20-6 be amended by adding the following language: The Commission has not taken a position on the overall merits of the proposed amendments except as they pertain to the Ethics Commission.

VIII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including but not limited to: Sections 1.110(b) (retention of campaign statements), 1.114(d) (aggregation of affiliated entity contributions), 1.134 (expenditure ceilings lifted), and 1.170 (penalties).

Motion 02-06-20-8 (Anglade/McCoy): Moved, seconded, and unanimously passed: that the Ethics Commission consider the proposed amendments to the Campaign Finance Reform Ordinance at the next meeting of the Commission.

IX. Discussion and possible action re: Whether the Ethics Commission as a whole or a Member of the Commission should (1) review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public financing may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

Motion 02-06-20-9 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Ethics Commission consider this item at a future meeting of the Commission.

X. Discussion and possible action re: Items for future agendas.

Commissioner Anglade proposed that the Commission consider discussing the news article by Frank Gallagher, "Ethics Schmetics," and whether the Commission as a whole should respond to it. Chairperson Melbostad stated that he never made most of the comments that were attributed to him in the article. He also noted that, as an individual, he will be demanding corrections.

Commissioner McCoy proposed, and Commissioner Garcia concurred, that the Commission consider whether a member of the Commission may serve as an officer if the member violates the Charter or other law.

Commissioner Garcia asked that the Commission review whether the Campaign Consultant Ordinance is clear as to whom it applies. Chairperson Melbostad explained that the Ordinance was passed when the voters approved Proposition G. In order to amend the Ordinance, the Commission would have to place a measure on the ballot or ask the Board of Supervisors to place the measure before the voters. Commissioner Planthold recommended that the Commission review the Campaign Consultant Manual to determine whether the instructions are clear. Chairperson Melbostad instructed staff to present the provisions in the manual regarding who should register and disclose.

Commissioner McCoy inquired whether there were any pending complaints against

candidates running in the November 2002 election. Ms. Vida agreed to provide this information. Commissioner McCoy said he would like such complaints resolved prior to the election. Ms. Vida stated that current practice is to address complaints in the order in which they have been filed, to the extent possible. She also said that it might not be possible to resolve complaints prior to an election that are filed close to the election.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XIV. Adjournment.

Motion 02-06-10-10 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the Commission adjourn the meeting.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

_____

Shaista Shaikh

Public Finance Administrator

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Ethics Commission

30 Van Ness Ave., Suite 3900
San Francisco, CA 94102
Phone 581-2300 Fax 581-2317

called

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, July 15, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

***Please note change in date, time and location. Please also note that a closed session will begin shortly after 5:30 p.m. The Commission will reconvene in public session at approximately 6:30 p.m.**

I. **Call to order and roll call.**

II. **Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.**

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 4

III. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.**

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

PUBLIC SESSION (commencing at approxminately 6:30 p.m.)

IV. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

V. **Discussion and possible approval of the minutes of the Ethics Commission meeting of June 20, 2002, and possible approval of amendments to the minutes of the Ethics Commission meeting of June 10, 2002.**

VI. **Executive Director's report**
1. **Budget: FY 03**
2. **Implementation of limited public financing program**
3. **Legislative developments**
4. **Advice and opinions**

5. Investigation and enforcement program
6. Report on volume of calls received via the Whistleblower Hotline
7. Campaign finance disclosure program
8. On-line filing program
9. Campaign finance audit program
10. Lobbyist program
11. Campaign consultant program
12. Statements of Economic Interests
13. Sunshine Declarations
14. Response to 2001-2002 Civil Grand Jury Report
15. Council on Governmental Ethics Laws - 2002 Conference

VII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including but not limited to: Sections 1.110(b) (retention of campaign statements), 1.114(d) (aggregation of affiliated entity contributions), 1.134 (expenditure ceilings lifted), and 1.170 (penalties). Copies of the proposed amendments and staff report are available from the Commission office or its web site at sfgov.org/ethics/.

VIII. Discussion and possible action re: Whether the Ethics Commission as a whole or a Member of the Commission should (1) review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public funding may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

IX. Discussion and possible action re: Articles by Frank Gallagher published in the San Francisco Examiner in June 2002, and whether the articles requires a response and whether the Ethics Commission should respond as a whole. Copies of the Examiner articles are available from the Ethics Commission office.

X. Discussion and possible action re: Whether an officer of the Ethics Commission who has been named as a respondent in an ethics complaint should continue to serve as an officer of the Commission if he or she (1) has entered into a settlement to resolve the complaint, or (2) has been found to have violated an ethics rule or law.

XI. Discussion and possible action re: Clarifying provisions in Commission materials regarding who should register as campaign consultants and disclose campaign consultant activity. Copies of a staff report will be available on Thursday, July 11 from the Commission office and its web site at sfgov.org/ethics/.

XII. Discussion and possible action re: Approval of form for evaluating the performance of the Executive Director, and whether the Commission should conduct the evaluation as a Committee of the Whole and when the evaluation should be conducted.

XIII. Discussion and possible action re: Review of Commission priorities for future initiatives. A list of priorities and projects will be available on Thursday, July 11 from the Commission office and its web site at sfgov.org/ethics/.

XIV. **Discussion and possible action re: Items for future agendas.**

XV. **Discussion and possible action re: Setting a regular day of the month and time for Commission meetings.**

XVI. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

XVII. **Adjournment.**

Know Your Rights Under the Sunshine Ordinance

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Ethics Commission

2317

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San Francisco, CA 94102
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REVISED 7/10/02

SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, July 15, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

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I. Call to order and roll call.

II. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 4

III. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

PUBLIC SESSION (commencing at approxminately 6:30 p.m.)

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

V. Discussion and possible approval of the minutes of the Ethics Commission meeting of June 20, 2002, and possible approval of amendments to the minutes of the Ethics Commission meeting of June 10, 2002.

VI. Executive Director's report
1. Budget: FY 03

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, August 5, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

***Please note change in date, time and location. Please also note that a closed session will begin shortly after 5:30 p.m. The Commission will reconvene in public session at approximately 6:30 p.m.**

I. **Call to order and roll call.**

II. **Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.**

Conference with Legal Counsel: Anticipated litigation as plaintiff or defendant

Number of possible cases: 1

III. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.**

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

PUBLIC SESSION (commencing at approxminately 6:30 p.m.)

IV. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

V. **Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of June 20, 2002, and amendments to the minutes of the Ethics Commission meeting of June 10, 2002.**

VI. **Executive Director's report**

1. **Budget: FY 03**
2. **Implementation of limited public financing program**
3. **Legislative developments**
4. **Advice and opinions**
5. **Investigation and enforcement program**

6. Report on volume of calls received via the Whistleblower Hotline
7. Campaign finance disclosure program
8. On-line filing program
9. Campaign finance audit program
10. Lobbyist program
11. Campaign consultant program
12. Statements of Economic Interests
13. Sunshine Declarations
14. Response to 2001-2002 Civil Grand Jury Report
15. Council on Governmental Ethics Laws - 2002 Conference

VII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including but not limited to: Sections 1.110(b) (retention of campaign statements), 1.114(d) (aggregation of affiliated entity contributions), 1.134 (expenditure ceilings lifted), and 1.170 (penalties). Copies of the proposed amendments and staff report are available from the Commission office or its web site at sfgov.org/ethics/.

VIII. Discussion and possible action re: Whether the Ethics Commission as a whole or a Member of the Commission should (1) review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public funding may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

IX. Discussion and possible action re: Whether an officer of the Ethics Commission who has been named as a respondent in an ethics complaint should continue to serve as an officer of the Commission if he or she (1) has entered into a settlement to resolve the complaint, or (2) has been found to have violated an ethics rule or law.

X. Discussion and possible action re: Clarifying provisions in Commission materials regarding who should register as campaign consultants and disclose campaign consultant activity. Copies of a staff report are available from the Commission office and its web site at sfgov.org/ethics/.

XI. Discussion and possible action re: Approval of form for evaluating the performance of the Executive Director, and whether the Commission should conduct the evaluation as a Committee of the Whole and when the evaluation should be conducted.

XII. Discussion and possible action re: Review of Commission priorities for future initiatives. A list of priorities and projects are available from the Commission office and its web site at sfgov.org/ethics/.

XIII. Discussion and possible action re: Items for future agendas.

XIV. Discussion and possible action re: Setting a regular day of the month and time for Commission meetings.

XV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XVI. Adjournment.

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ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

H. MELBOSTAD
CHAIRPERSON

R. PLANTHOLD
-CHAIRPERSON

HELE ANGLADE
COMMISSIONER

AEL L. GARCIA
COMMISSIONER

EN Q. MCCOY
COMMISSIONER

RGINIA E. VIDA
TIVE DIRECTOR

NOTICE OF CANCELLATION and RESCHEDULING of ETHICS COMMISSION MEETING

The special meeting of the Ethics Commission scheduled for Monday, August 5, 2002, has been cancelled.

The meeting has been rescheduled for Friday, August 9, at 3:00 p.m., Room 421 city Hall.

The Ethics Commission will also hold a special meeting on Monday, August 19, at 5:30 p.m., Room 421 City Hall.

Meeting agendas are posted at City Hall, the Main Library (government desk) and on the Commission's web site at www.sfgov.org/ethics/.

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

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Friday, August 9, 2002, 3:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

***Please note change in date, time and location. Please also note that a closed session will begin shortly after 3:00 p.m. The Commission will reconvene in public session at approximately 3:45 p.m.**

I. Call to order and roll call.

II. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff or defendant

Number of possible cases: 1

III. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

PUBLIC SESSION (commencing at approxminately 3:45 p.m.)

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

V. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of June 20, 2002, and amendments to the minutes of the Ethics Commission meeting of June 10, 2002.

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1. Budget: FY 03
2. Implementation of limited public financing program
3. Legislative developments
4. Advice and opinions
5. Investigation and enforcement program

6. Report on volume of calls received via the Whistleblower Hotline
7. Campaign finance disclosure program
8. On-line filing program
9. Campaign finance audit program
10. Lobbyist program
11. Campaign consultant program
12. Statements of Economic Interests
13. Sunshine Declarations
14. Response to 2001-2002 Civil Grand Jury Report
15. Council on Governmental Ethics Laws - 2002 Conference

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XV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Friday, August 9, 2002, 3:00 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

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Number of possible cases: 1

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Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

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3. Legislative developments

4. Advice and opinions
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9. Campaign finance audit program
10. Lobbyist program
11. Campaign consultant program
12. Statements of Economic Interests
13. Sunshine Declarations
14. Response to 2001-2002 Civil Grand Jury Report
15. Council on Governmental Ethics Laws - 2002 Conference

VII. Presentation by staff and discussion re: 1) Procedures followed by the Ethics Commission when complaints are filed with, or initiated by, the Commission; and 2) confidentiality of complaints.

VIII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance, including but not limited to: Sections 1.110(b) (retention of campaign statements), 1.114(d) (aggregation of affiliated entity contributions), 1.134 (expenditure ceilings lifted, and requirement that committees that make independent expenditures, or incur expenses for member communications, to support or oppose a candidate, in amounts of $5,000 or more, file statements with the Ethics Commission within 24 hours of reaching such spending thresholds), and 1.170 (penalties). Copies of the proposed amendments and staff report are available from the Commission office or its web site at sfgov.org/ethics/.

IX. Discussion and possible action re: Whether the Ethics Commission as a whole or a Member of the Commission should (1) review appeals from supervisorial candidates concerning applications for public financing in the November 2002 election, and (2) review appeals from a rejection of a claim for public funds. Pursuant to the Campaign Finance Reform Ordinance, a candidate who does not receive certification from the Executive Director that he or she satisfies the eligibility requirements to receive public funding may file a written appeal to the Ethics Commission. Under regulations adopted by the Commission, if the Executive Director rejects a claim for funds in whole or in part, the candidate may file an appeal with the Commission or a member designated by the Commission to consider and decide such appeals.

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XV. Discussion and possible action re: Items for future agendas.

XVI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XVII. Adjournment.

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING AND AGENDA

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Monday, August 19, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

***Please note change in date, time and location.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of August 9, 2002; and amendments to the minutes of the Ethics Commission meeting of June 10, 2002.**

IV. **Executive Director's report**

1. **Budget: FY 03**
2. **Implementation of limited public financing program**
3. **Legislative developments**
4. **Advice and opinions**
5. **Investigation and enforcement program**
6. **Campaign finance disclosure program**
7. **On-line filing program**
8. **Assessment and collection of fines; procedures re: waiver requests**
9. **Campaign finance audit program**
10. **Lobbyist program**
11. **Campaign consultant program**
12. **Statements of Economic Interests**

V. **Discussion and possible action re: Review of Commission priorities for future initiatives. A staff memorandum dated July 10, 2002, providing a list of priorities and projects, is available from the Commission office and its web site at sfgov.org/ethics/.**

VI. **Discussion and possible action re: Required determination as to whether the Ethics Commission finds it necessary to pro-rate awards to publicly financed candidates for the Board of Supervisors. A staff report will be available on Friday, August 16. The Campaign Finance Reform Ordinance requires that the Ethics Commission determine,**

within 15 days of the date for filing nomination papers, whether it is necessary to pro-rate awards to publicly financed candidates. In view of the number of candidates who have applied for public financing, the staff will propose that pro-ration of awards to candidates from the Election Campaign Fund is not necessary.

VII. Discussion and possible action re: Commission policy on appeals from certifications for public financing. At the Commission's August 9, 2002 meeting, the Commission delegated the task of hearing appeals from certifications to a single commissioner on a rotating basis. Because the Campaign Finance Reform Ordinance provides that appeals may be made to the Ethics Commission, the Commission should consider allowing a person to request review by the full Commission.

VIII. Discussion and possible action re: Setting a regular day of the month and time for Commission meetings.

IX. Discussion and possible action re: Approval of form for evaluating the performance of the Executive Director, and whether the Commission should conduct the evaluation as a Committee of the Whole and when the evaluation should be conducted.

X. Discussion and possible action re: Items for future agendas.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XII. Adjournment.

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Ethics Commission

August 19, 2002

(Approved 9/12/02)

Minutes of the Special Meeting of the San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 421
August 19, 2002, 5:30 p.m.

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I. Call to order and roll call

Chairperson Paul Melbostad called the meeting to order at 5:30 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michele Anglade, Commissioner; Michael L. Garcia, Commissioner; Waukeen Q. McCoy, Commissioner.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Joe Lynn, Campaign Finance Officer; Shaista Shaikh, Public Finance Administrator; Grace Chau, Public Finance Auditor

OTHERS PRESENT: Anita Mayo, Pillsbury Winthrop; Tom Hsieh and Frances Hsieh, representing Fiona Ma, candidate for District 4 Board of Supervisors; Malinka Moye, candidate for District 6 Board of Supervisors

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney

MATERIALS DISTRIBUTED:

Agenda for the Meeting of August 19, 2002

Executive Director's Report for the Meeting of August 19, 2002

Draft Minutes of the Special Meeting of August 9, 2002

August 16, 2002 memo from Executive Director Ginny Vida regarding Corrections to Minutes of June 10, 2002 meeting

Approved Amended Minutes of the Special Meeting of June 10, 2002

Approved Minutes of the Special Meeting of June 20, 2002

Qualified Candidate List for November 5, 2002 Election

July 10, 2002 memo from Executive Director Ginny Vida regarding List of Policy Initiatives and Projects

August 15, 2002 memo from Executive Director Ginny Vida regarding Whether to Pro-rate the Disbursement of Public Funds

August 15, 2002 memo from Executive Director Ginny Vida regarding Appeals Process for Certification of Eligibility to Receive Public Funds

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Tom Hsieh, representing supervisorial candidate Fiona Ma, requested that the Commission lift the spending limit in District 4 because candidate Andrew Lee "broke the $75,000 limit per his recent filings with the Commission." He referred the Commission to Section 1.146(a) of the Campaign and Governmental Conduct Code which states that "if a candidate who has not filed a declaration under Section 1.142(a) of this chapter, or who has received notice under Section 4.142 that the candidate is ineligible to receive public funds, receives contribution or makes qualified campaign expenditures in excess of 100% of the applicable expenditure ceiling, the applicable expenditure ceiling shall no longer be binding on any candidate running in the same supervisorial district." He pointed out that candidate Lee had raised $75,995 contributions, $995 over the limit, according to the campaign statement Lee filed on July 30, 2002. Mr. Hsieh said that it was clear to him as a lay person reading the law that the spending limit should be lifted; and he asked the Commission to lift the limit to allow his candidate to compete fairly.

Ms. Vida reported that she had contacted candidate Lee, who informed her that he intended to abide by the voluntary spending limit. She said that Mr. Lee told her that $15,000 of the $75,995 was a loan from himself to the campaign, and that he did not understand that a loan was considered a contribution. Mr. Lee also said that he intended to return some of the loan in order to stay within the limit. Chairperson Paul Melbostad explained that the Commission never intended that the spending limit should be lifted in a situation where all the candidates agree to abide by the spending limit, one candidate who does not participate in the public financing program inadvertently raises contributions above the spending limit, and no candidate has spent more than the spending limit. Mr. Hsieh stated that section 1.146 addresses nonparticipating candidates and does not say anything about accepting the voluntary spending limits. The commissioners agreed to discuss this issue under the Executive Director's Report at agenda item IV.

Malinka Moye, a candidate for the District 6 seat on the Board of Supervisors, reported that his treasurer received a call from a member of the Commission staff that implied that the funds he raised to participate in the public financing program involve money laundering. Ms. Vida responded to Mr. Moye's concerns by explaining that she had cautioned Mr. Moye that anonymous contributions were not acceptable for public financing purposes. She said she had explained to Mr. Moye that each qualifying contribution must come from individual residents of San Francisco with proof of residency; if the moneys do not come from individuals who actually made the contributions, it could be money laundering. In response to Mr. Moye's request that the Commission extend the deadline for him to get his claim in order, Public Finance Administrator Shaista Shaikh explained that staff had received and was reviewing Mr. Moye's application. If the declaration or supporting documents are incomplete or otherwise inadequate to establish eligibility, Mr. Moye will be notified and be given five business days to resubmit the declaration and supporting documents. Ms. Shaikh also noted that she had met with Mr. Moye on two occasions to explain the public financing requirements.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of August 9, 2002; and amendments to the minutes of the Ethics Commission meeting of June 10, 2002.

Ms. Vida advised that due to the short period of time between tonight's and the August 9 meetings, the minutes of the August 9 meeting were not available until this meeting. She suggested that the Commission consider the minutes at the next meeting.

Motion 02-08-19-01 (McCoy/Garcia): Moved, seconded, and unanimously passed: that the

Commission discuss the minutes of the August 9 meeting at its next meeting.

Deputy Executive Director Mabel Ng referred the Commission to a proposed additional correction to the minutes of June 10, 2002 meeting.

Motion 02-08-19-02 (Anglade/Planthold): Moved, seconded, and unanimously passed: that the Commission adopt the corrections to the minutes of the June 10, 2002 meeting and approve the minutes, as amended.

IV. Executive Director's report

Ms. Vida reported that staff had estimated that there will be a minimum surplus of $399,750 in the Election Campaign Fund for publicly financed candidates, and that she had informed the Mayor's office, the president of the Board of Supervisors and the Budget Committee of this fact. She added that the Controller's Office had issued four checks of $5,000 each, which represent initial payments to qualifying candidates in the public financing program. Ms. Shaikh identified the four qualifying candidates as Ron Dudum, Joel Ventresca, Chris Daly and Barry Hermanson. Ms. Shiakh added that candidate Bevan Dufty was also certified but has declined to accept public funds. She also stated that candidates who have qualified may now start to submit claims for matching funds.

Ms. Vida informed the Commission that Channel 26 will tape and air a pre-election program about the Commission's new public financing program for supervisorial candidates. The taping will take place during the first week of September. Other than Chairperson Melbostad and herself, Ms. Vida said that Robert Stern from the Center for Governmental Studies and Dan Purnell from the Oakland Public Ethics Commission will be invited to serve on the panel.

Following the Director's report on the public finance program, the Commission began discussing the issue raised in public session. Commissioner Michele Anglade stated that leaving the District 4 spending limits in place is not in accord with the plain language of the law; and that while she agrees that the language of the provision should be changed, the language is what currently exists.

Commissioner Waukeen McCoy agreed that section 1.146 is clear and that the limit should be lifted.

Commissioner Michael Garcia added that looking to see whether a candidate has received contributions above a certain limit is an objective standard that the Commission should use to determine whether to lift the limits; he said that the Commission's decision should not be based on whether the candidate intends to abide by the spending limit because such a standard is subjective.

Commissioner Robert Planthold pointed out that the campaign disclosure form filed by the candidates clearly states that loans received are considered contributions. He also noted the possibility that non-monetary contributions received by a candidate could lift the limit and that candidates do not have much control over how much they receive in contributions.

Ms. Ng stated that no candidate in District 4 is disadvantaged while the spending limit remains in place because all candidates in the district are free to raise as much money as they wish; they are only precluded from spending more than $75,000. Ms. Vida added that 80 percent of the voters supported the spending limits, and that the current situation was not one that was ever anticipated.

Ms. Vida informed the commissioners that they should expect to receive for consideration at the next meeting a draft of a revised legislative proposal on regulation of permit expediters, introduced by Supervisor Daly. Staff has reviewed and has provided comment on a preliminary draft to Supervisor Daly's staff.

Campaign Finance Officer Joe Lynn reported that the City of Long Beach has expressed interest in licensing the Commission's On Line Filing System.

V. Discussion and possible action re: Review of Commission priorities for future initiatives. A staff memorandum dated July 10, 2002, providing a list of priorities and projects, is available from the Commission office and its web site at sfgov.org/ethics/.

Ms. Vida stated that item 1 (Implementation of Prop O's Public Financing Program) is already in progress and that item 2 (Consideration of Proposed Amendments to the Campaign Finance Reform Ordinance) has been completed for the time being. Commissioners agreed that items 5 (Review and Clarify Local Conflict of Interest Laws) and 7 (Amend Regulations for Investigations and Enforcement Proceedings) should be given high priority. Commissioner Anglade agreed to assist staff on these items. Commissioners also agreed that items 8 (Develop regulations to exempt holidays and weekends from the days on which fines under the Lobbyist and Campaign Consultant ordinances may be imposed) and 9 (Adjust Limitation and Disclosure Thresholds to reflect increases and decreases in the Consumer Price Index) could be handled quickly. Commissioner Garcia agreed to work with staff on items 9 and 12; Commissioner McCoy agreed to work with staff on item 14, and Commissioner Planthold agreed to work with staff on items 4, 6, and 15 when staff is ready to work on those items.

VI. Discussion and possible action re: Required determination as to whether the Ethics Commission finds it necessary to pro-rate awards to publicly financed candidates for the Board of Supervisors.

In view of the anticipated surplus in the Election Campaign Fund, the Commission agreed that it would not be necessary to pro-rate awards to candidates.

Motion 02-08-19-03 (Planthold/Garcia): Moved, seconded, and unanimously passed: that pro-ration of awards to candidates from the Election Campaign is not necessary for the November 2002 election.

VII. Discussion and possible action re: Commission policy on appeals from certifications for public financing. At the Commission's August 9, 2002 meeting, the Commission delegated the task of hearing appeals from certifications to a single commissioner on a rotating basis.

The Commission agreed to rescind its earlier decision to delegate to one commissioner on a rotating basis the task of hearing appeals from denials of certification of eligibility to receive public funds.

Motion 02-08-19-04 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the full Commission will hear appeals on denials of certification of eligibility from candidates.

VIII. Discussion and possible action re: Setting a regular day of the month and time for Commission meetings.

Ms. Vida reported that the second Monday at 5:30 p.m. appears to be the only day and time when a hearing room is available and the commissioners are available. Room 408 City Hall had been reserved for the Commission's regular meeting. Because the time of the meeting will be changed, a change in the bylaws is required. Under the bylaws, proposed amendments must be circulated in writing to Commissioners for 10 days and posted for 10 days prior to adoption by the Commission.

Motion 02-08-19-05 (McCoy/Garcia): Moved, seconded, and unanimously passed: that the time of the regular Commission meeting be changed from 5:00 p.m. to 5:30 p.m.

IX. Discussion and possible action re: Approval of form for evaluating the performance of

the Executive Director, and whether the Commission should conduct the evaluation as a Committee of the Whole and when the evaluation should be conducted.

Mr. Vida reported that the Department of Human Resources has recommended a change in her classification and she is awaiting approval from the Mayor's Budget Office. She suggested that the Commission defer this matter to the next meeting.

Motion 02-08-19-06 (Melbostad/Planthold): Moved, seconded, and unanimously passed: that the Commission continue this item to the next meeting.

X. Discussion and possible action re: Items for future agendas.

Commissioners Garcia, Planthold and McCoy asked that the agenda for the next meeting include a discussion and action item on the lifting of the expenditure ceiling.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Frances Hsieh, representing candidate Fiona Ma, asked that the Commission enforce the law by lifting the spending limit in District 4 because a candidate who is not participating in the public finance program has received more than $75,000 in contributions. She said that the role of the Commission is to enforce the law objectively rather than to speculate subjectively about a candidate's intent to abide by the spending limit. She said that Proposition O added language that spending limits will be lifted when a nonparticipating candidate receives contributions in excess of the spending limit. She urged the Commission to look at the words of the law rather than the intent of candidates because the words of the law are the bases by which candidates make their decisions.

XII. Adjournment.

Motion 02-08-19-08 (Planthold/McCoy): Moved, seconded, and unanimously passed: that the Commission adjourn the meeting.

The meeting was adjourned at 8:04 p.m.

Respectfully submitted,

_____

Grace Chau

Public Finance Auditor

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Thursday, September 12, 2002, 5:30 P.M.*

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 421*

***Please note change in day, time and location.**

I. Call to order and roll call.

II. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 1

III. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

PUBLIC SESSION COMMENCING AT APPROXIMATELY 6:00 p.m.

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

V. Discussion and possible action re: Approval of the minutes of the Ethics Commission meetings of August 9, 2002 and August 19, 2002.

VI. Executive Director's report

1. Budget: FY 03
2. Implementation of limited public financing program
3. Legislative developments
4. Advice and opinions
5. Investigation and enforcement program
6. Campaign finance disclosure program
7. On-line filing program
8. Assessment and collection of fines; procedures re: waiver requests

9. Campaign finance audit program
10. Lobbyist program
11. Campaign consultant program
12. Statements of Economic Interests
13. Plans for COGEL Conference in December 2004

VII. Discussion and possible action re: Adjusting the expenditure ceilings affecting candidate campaigns for local elective office to reflect increases in the Consumer Price Index (CPI). Under Section 1.130(f) of the Campaign and Governmental Conduct Code, the Ethics Commission is authorized to adjust annually the expenditure ceilings imposed by local law to reflect any increases or decreases in the CPI. A staff report and recommendation will be available on Monday, September 9, from the Commission office and its web site at www.sfgov.org/ethics/.

VIII. Discussion and possible action re: Ordinance presented by Supervisor Daly (File No. 012222) amending the San Francisco Campaign and Governmental Conduct Code to impose registration and reporting requirements on persons who are paid to assist in obtaining City permits. A staff report and a copy of the proposed legislation will be available from the Ethics Commission office on Monday, September 9.

IX. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees (including Charter section 15.103, 15.104, 15.105, 15.106 and 15.108 and Campaign and Governmental Conduct Code sections 3.200, 3.300, 3.400, 3.545, and 3.700) and probl ems with interpretation and enforcement; consideration of options for revising the laws; and review of a proposed timetable for considering various provisions at future Ethics Commission meetings. A staff report and proposed timetable will be available on Monday, September 9 from the Commission and its web site.

X. Discussion and possible action re: Approval of a change in the by-laws to provide that the Ethics Commission's regular meetings shall be held at 5:30 p.m. The by-laws currently provide that the Commission's regular meetings are held on the second Monday of each month at 5:00 p.m. If this change is approved, the Commission's regular meetings will be held on the second Monday of each month at 5:30 p.m., Room 408 City Hall.

XI. Discussion and possible action re: Lifting the spending limits. At its last meeting on August 19, the Commission heard comments from members of the public and the staff regarding whether the expenditure limits should be lifted for candidates for the Board of Supervisors in District 4. The limits were subsequently lifted in District 4. However, the Commission may wish to consider whether the Campaign Finance Reform Ordinance should be amended to provide that the spending limits are not lifted when a candidate who does not participate in the public financing program agrees to abide by the spending limits.

XII. Discussion and possible action re: Items for future agendas.

XIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XIV. Adjournment.

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Ethics Commission

September 12, 2002

(Approved 10/18/02)

Minutes of the Special Meeting of the
San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 421

September 12, 2002, 5:30 p.m.

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I. Call to order and roll call

Chairperson Paul Melbostad called the meeting to order at 5:35 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michael L. Garcia, Commissioner; Waukeen Q. McCoy, Commissioner. Commissioner Michele Anglade arrived during the closed session.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Joe Lynn, Campaign Finance Officer; Katherine Havener, Ethics Investigator/Legal Analyst; Oliver Luby, Fines Collection Officer.

OTHERS PRESENT: Anita Mayo, Pillsbury Winthrop; Denise D'Anne, Commissioner, Building Inspection Commission; Bill Barnes, Aide to Supervisor Chris Daly.

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney

MATERIALS DISTRIBUTED:

Agenda for the Meeting of September 12, 2002

Executive Director's Report for the Meeting of September 12, 2002

Draft Minutes of the Special Meeting of August 9, 2002

Draft Minutes of the Special Meeting of August 19, 2002

Qualified Candidate List for November 5, 2002 Election

August 20, 2002 memo from Executive Director Ginny Vida regarding Change to Bylaws

September 9, 2002 memo from Executive Director Ginny Vida regarding Revision of Provisions Related to Economic Interests

September 9, 2002 memo from Executive Director Ginny Vida regarding Amendments

to Conflict of Interest Laws

September 9, 2002 memo from Executive Director Ginny Vida regarding Proposed Regulation to Adjust Expenditure Ceilings

September 9, 2002 memo from Executive Director Ginny Vida regarding Legislation to Require Registration of Permit Expediters

II. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Motion 02-09-12-01 (Garcia/McCoy): Moved, seconded, and unanimously passed: that the Commission adjourn into closed session.

The Commission adjourned to closed session at 5:38 p.m. and reconvened in open session at 6:05 p.m.

III. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion 02-09-12-02 (Planthol/Garcia): Moved, seconded, and unanimously passed: that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Anita Mayo of the firm Pillsbury Winthrop informed the Commission that she had recently become aware that contributions by a particular donor to a candidate that are transferred to the candidate's new committee for a subsequent election count towards the $500 contribution limit for the new election and must be attributed to the donor. She expressed concern that both committees and donors may be required to keep track of such contributions and said that she is not aware of any other jurisdiction that requires such tracking. The Commission suggested that Ms. Mayo submit a written request for formal advice so that staff could carefully review the issue.

V. Discussion and possible action re: Approval of the minutes of the Ethics Commission meetings of August 9, 2002 and of August 19, 2002.

Motion 02-09-12-03 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Commission approve the minutes of the August 9 and August 19, 2002 meetings.

VI. Executive Director's report

In response to Commissioner Robert Planthold's request for an update report on the email virus problems that staff and Commissioners have been experiencing, Executive Director Ginny Vida reported that the Department of Telecommunications and Information Services (DTIS) has installed a new Lotus Notes email system that offers virus protection to staff and those who receive staff email. Campaign Finance Officer Joe Lynn explained that email sent to the City system is automatically cleaned and any viruses deleted. He added that he would be meeting with Bink Feldcamp of DTIS. He suggested that commissioners who have email problems call him. Mr. Lynn also

suggested that an email protocol be set up so that all email end in an automatically generated signature, which will help to verify the authenticity of the email's sender.

Regarding the budget, Ms. Vida reported that City departments have been notified of capital expenditures in their budgets that have been put on reserve. She said the Ethics Commission had been notified that funding in the amount of $28,000 for an equipment item to implement a database upgrade has been put on hold.

Ms. Vida reported that through the public financing program, grants ranging from $5000 to $29,000 have been distributed to qualifying candidates, for a total disbursement of about $84,000. Staff also noted that two of the qualifying candidates have indicated they do not wish to receive public funds; Supervisor Maxwell has raised the threshold amount of qualifying contributions but does not yet have an opponent; and another applicant has yet to qualify.

Ms. Vida reported that Mr. Lynn will make a presentation on the Ethics Commission's campaign log at the upcoming League of California Cities forum in Monterey on December 12. She noted that Sacramento is very pleased with the Commission's On Line Filing System, and that Long Beach will vote soon on whether it will adopt the system.

Commissioner Planthold noted that an update on the executive director's job performance criteria was not included on the agenda. Ms. Vida advised that she is still awaiting information from the Department of Human Resources and the Mayor's Office on how the position will be classified. If the position is reclassified, an MEA evaluation form will be used and the evaluation will be conducted in June.

Commissioner Planthold noted that item #11 of the report describes an unusual number of requests for archived Statements of Economic Interests, and that this has placed a great burden on staff. He asked that staff provide an analysis and recommendations to address this issue.

Ms. Vida asked Chairperson Paul Melbostad to announce the settlement of Complaint No. 02-020226. Under the settlement, Steven Hill has agreed to pay $350 to resolve allegations that he violated the Campaign Consultant Ordinance, and Caleb Kleppner has agreed to pay $200 to resolve allegations that he violated the Campaign Consultant Ordinance.

VII. Discussion and possible action re: Adjusting the expenditure ceilings affecting candidate campaigns for local elective office to reflect increases in the Consumer Price Index (CPI).

The Commission discussed the proposed adjustment to the expenditure ceilings, as set forth in a staff memo and proposed regulation. Ms. Vida stated that the adjustment would be made in order to keep up with inflation and that the future increases would be automatic under the regulation. The regulation is based on an FPPC proposal and utilizes the California Consumer Price Index for September to calculate the spending ceiling changes for an election in the following year.

Motion 02-09-12-04 (Garcia/Planthold): Moved, seconded, and unanimously passed: that the Ethics Commission adopt proposed Regulation 1.130(f)-1, "Amount of Expenditure Ceilings; Adjustments," to set up a formula for automatic adjustments of the expenditure ceilings.

NOTE: The remaining agenda items were taken in the following order: X, XI, IX, VIII, XII, XIII, and XIV.

VIII. Discussion and possible action re: Ordinance presented by Supervisor Daly (File No. 012222) amending the San Francisco Campaign and Governmental Conduct Code to impose registration and reporting requirements on persons who are paid to assist in obtaining City permits.

Ms. Vida reported that she had been asked by the Budget Analyst of the Board of Supervisors to provide an estimate of the administrative costs of Supervisor Daly's proposed legislation providing for regulation of permit expediters. She said that the Finance Committee would likely consider the legislation in the near future. She explained that when the legislation was proposed last year, it sought to address the perceived or actual undue influence that permit expediters might exert on the City's permitting processes. Since then, the legislation has been modified. Staff provided informal comment on a draft of the new legislation, and Supervisor Daly incorporated some of the suggestions. Under the new legislation, permit expediters would file a report once per year with the Ethics Commission and disclose how much they are paid and whom they are representing. Chairperson Melbostad suggested that the legislation should be amended to require the reporting of contacts made. He also noted staff's concern about the cost of implementing the proposed program.

Bill Barnes, aide to Supervisor Daly, gave a detailed presentation about the legislation. He explained that the revised legislation is aimed at gathering information about permit expediters over an 18-month trial period. Thereafter, Supervisor Daly would work with departments to see what needs to be done and what makes sense. Mr. Barnes also reported that since the introduction of the legislation last year, reforms have been implemented at some departments.

Commissioner Anglade noted that if the intent of the legislation is to get at actual or perceived corruption, the legislation does not address the problem. She also pointed out that it would be very difficult for an attorney to determine what is not considered legal services. She asked whether a secretary or a messenger who performs some of the permit expediting duties and who earns $1,000 must register as a permit expediter. She asked how anyone will know who is a permit expediter under the law.

Ms. Mayo said that the legislation penalizes persons who are experts and that it does not eliminate actual or perceived favoritism. The legislation does not address the problem of persons allegedly having to pay money to expediters to ensure that a permit is not denied. Ms. Mayo said that her law firm often pays application fees for her clients, which the firm recoups later from the clients. She did not believe that the law was intended to capture her firm as a permit expediter in its provision of legal services. In addition, her firm uses messenger services that may drop off a permit; she said she did not believe that the legislation was intended to capture such services. Ms. Mayo also stated that it is not reasonable to require permit expediters to report economic consideration received prior to the initial registration. She said that records of such activity might not have been retained.

After further discussion, Mr. Barnes agreed to consider several concerns raised by the Commission, including incorporating language to provide funding for the Ethics Commission to implement the new law; incorporating language to require client authorization and client termination statements; considering whether expediters should be required to identify their contacts and the purposes of their meetings with the contacts; considering whether the Lobbyist Ordinance should delete permit expediters from the exception of those required to file; considering whether the qualifying threshold should be raised; adding language to require departments to notify persons appearing before them that if they meet the qualifications of a permit expediter, they must register and file reports with the Ethics Commission; and

considering whether the exceptions to the definition of a "permit expediter" be broadened or narrowed. Mr. Barnes said that he would provide a copy of the revised legislation to the Commission.

IX. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees (including Charter section 15.103, 15.104, 15.105, 15.106, and 15.108 and Campaign and Governmental Conduct Code sections 3.200, 3.300, 3.400, 3.545, and 3.700) and problems with interpretation and enforcement; consideration of options revising the laws; and review of a proposed timetable for considering various provisions at future Ethics Commission meetings.

Staff referred the Commission to two memos, one setting forth a proposed timetable to discuss the various conflict of law provisions and the other setting forth current and proposed provisions related to prohibitions against City officials and employees being financially interested in City contracts and transactions.

Deputy Executive Director Mabel Ng noted that many of the conflict of interest laws are contained in the Charter; therefore, many of the proposed changes would have to be approved by the voters, probably on the November 2003 ballot. Based on historical precedent, this means that the proposals must be presented to the Board of Supervisors by late April or early May 2003. The proposed timetable would allow the Commission to consider the various conflict of interest laws on a topic-by- topic basis by that deadline.

With respect to the provisions on financial interests, staff explained that many of the Charter provisions, while designed to mirror state law, were not amended when state law, so that conduct that may not violate state law may violate the local version of the law. Staff proposed that the Commission adopt amendments to Charter section C8.105(a), (c), (h) and (i), to incorporate the Political Reform Act and Government Code section 1090 in a way that ensures that local law does not unintentionally deviate from state law.

Staff also recommended that the Commission consider moving the conflict of interest provisions in the Charter to the Campaign and Governmental Conduct Code. Staff further recommended that the Commission consider adopting a provision to permit the Board of Supervisors to amend voter-approved conflict of interest laws, much as it now may amend the Campaign Finance Reform Ordinance. This may make it easier to amend conflict of interest laws and at the same time, by requiring a super majority, ensure that it will not be too easy to amend provisions the voters consider important.

Motion 02-09-12-05 (Garcia/Planthold): Moved, seconded, and unanimously passed: that the Ethics Commission adopt staff's recommendations regarding the timetable to consider conflict of interest provisions, and that the Commission adopt staff's recommendations regarding amendments to Charter section C8.105 (a), (c), (h) and (i) to incorporate the Political Reform Act and Government Code section 1090 and any subsequent amendments.

X. Discussion and possible action re: Approval of a change in the by-laws to provide that the Ethics Commission's regular meetings shall be held at 5:30 p.m.

Motion 02-09-12-06 (Garcia/Anglade): Moved, seconded, and unanimously passed: that the Commission change its by-laws to provide that the Ethics Commission will hold its regular meetings at 5:30 p.m. instead of 5:00 p.m.

XI. Discussion and possible action re: Lifting the spending limits.

Ms. Vida reported that the spending limit had been lifted in District 4. Under current law, a nonparticipating candidate for the Board of Supervisors who raises more than the $75,000 spending limit may cause the spending limits to be lifted, even though the candidate had agreed to abide by the spending limit. Ms. Ng explained that when the Commission recently considered amendments to the Campaign Finance Reform Ordinance, it adopted amendments to make the process for lifting the spending limits in elections for the Board of Supervisors the same as it is in elections for all other City elective offices. Thus, should the amendments be enacted, a candidate who agrees to abide by the spending limit will not cause the spending limit to be lifted if he or she raises but does not spend more than the spending limit.

[After discussing XI. and before discussing IX., the Commission decided to take a recess from 6:56 to 7:05 pm.]

XII. Discussion and possible action re: Items for future agendas.

There was no discussion.

XIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no further public comment.

XIV. Adjournment.

The Commission agreed that it would next meet on Friday, October 18 instead of Monday, October 13, 2002, which is a City holiday. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

_____

Oliver Luby

Fines Collection Officer

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Friday, October 18, 2002, 2:00 P.M.*

San Francisco Public Library, Latino Hispanic Community Room A*
30 Grove Street, San Francisco
(Located on the Library lower level; enter 30 Grove Street and proceed downstairs.)

***Please note change in day, time and location.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of September 12, 2002.**

IV. **Executive Director's report**
1. **Budget: FY 03**
2. **Implementation of limited public financing program**
3. **Legislative developments**
4. **Advice and opinions**
5. **Investigation and enforcement program**
6. **Campaign finance disclosure program**
7. **On-line filing program**
8. **Assessment and collection of fines; procedures re: waiver requests**
9. **Campaign finance audit program**
10. **Lobbyist program**
11. **Campaign consultant program**
12. **Statements of Economic Interests**
13. **Plans for COGEL Conference in December 2004**

V. **Discussion and possible action re: Appeal of Molinka Moye to the Ethics Commission from Executive Director's denial of certification of qualification to receive public funds for his campaign for the Board of Supervisors, District 6.**

VI. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)) and gifts (Charter section C8.105(b) and (f) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws. A staff report will be available on Tuesday, October 15 from the Commission and its web site.

VII. Discussion and possible action re: Approval of form for evaluating the performance of the Executive Director, and whether the Commission should conduct the evaluation as a Committee of the Whole and when the evaluation should be conducted.

VIII. Discussion and possible action re: Regulation to exclude holidays and weekends from the calculation of fines based on number of days that filings are late under the Lobbyist Ordinance and Campaign Consultant Ordinance.

IX. Discussion and possible action re: Items for future agendas.

X. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XI. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 2

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XIII. Adjournment.

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Ethics Commission

October 18, 2002

Approved 11/15/02

Minutes of the Special Meeting of the
San Francisco Ethic Commission
San Francisco Public Library, Latino Hispanic Community Room
30 Grove Street, San Francisco
October 18, 2002, 2:00 p.m.

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I. Call to order and roll call

Chairperson Paul H. Melbostad called the meeting to order at 2:11 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Waukeen Q. McCoy, Commissioner; Michael L. Garcia, Commissioner. Commissioner Michele Anglade was not present due to a scheduling conflict.

STAFF PRESENT: Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst; Shannon Hardin, Ethics Investigator/Assistant Legal Analyst; Shaista Shaikh, Public Finance Administrator; Grace Chau, Public Finance Auditor

CITY ATTORNEY'S OFFICE: Claire Sylvia, Deputy City Attorney

OTHERS PRESENT: Molinka Moye, candidate for District 6 Board of Supervisors; James Reid

MATERIALS DISTRIBUTED:

Agenda for the Meeting of October 18, 2002

Executive Director's Report for the Meeting of October 18, 2002

Draft Minutes of the Special Meeting of September 26, 2002

October 11, 2002 memo from Executive Director Ginny Vida regarding Molinka Moye's

Appeal to the Ethics Commission of the Executive Director's Decision Not to Certify Him as Eligible to Receive Public Financing

October 15, 2002 memo from Executive Director Ginny Vida regarding Proposed

Revisions of Conflict of Interest Laws

October 15, 2002 memo from Executive Director Ginny Vida regarding Proposed

Regulations to Exclude Holidays and Weekends from the Number of Days Used to

Calculate Late Fines under the Campaign Consultant and Lobbyist Ordinances

October 15, 2002 memo from Executive Director Ginny Vida regarding Excerpts

from COGEL reports

COGEL report: 2002 Campaign Finance Update

COGEL report: 2002 Ethics Update

October 15, 2002 letter from Anita Mayo to the Executive Director regarding Interpretation of Campaign Finance Reform Ordinance Section 1.114.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of September 12, 2002.

Motion 02-10-18-1 (Garcia/McCoy): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of September 12, 2002 be approved as drafted.

IV. Executive Director's report

Commissioner Melbostad advised that Executive Director Ginny Vida was not present due to illness. Mabel Ng, Deputy Executive Director, was present in place of Ms. Vida.

Ms. Ng referred the Commission to the Executive Director's report and provided additional updates on the following:

Ms. Ng reported that Katherine Havener has informed staff that she will be resigning from the Ethics Commission effective November 1, 2002. Ms. Havener has accepted a new position in Los Angeles. On behalf of the Executive Director and staff, Ms. Ng thanked Ms. Havener for her hard work. The Commissioners also thanked Ms. Havener and commended her for her dedication and service.

Ms. Ng reported that Commissioner McCoy has agreed to assist staff in developing the Commission's FY 02-03 budget.

Ms. Ng advised that under the public financing program, a total of $223,000 in funding has been distributed to eight candidates.

The Ethics Commission received a letter from Anita Mayo requesting advice. Staff is reviewing Ms. Mayo's letter and will respond to the issue raised.

V. Discussion and possible action re: Appeal of Molinka Moye to the Ethics Commission of the Executive Director's denial of certification of qualification to receive public funds for his campaign for the Board of Supervisors, District 6.

Molinka Moye, candidate for Supervisor-District 6, requested an additional one-week extension to provide staff with evidence that he meets the legal requirements to qualify for public financing. Mr. Moye stated that he needed an additional extension due to his inexperience as a new candidate, his campaign staff's lack of professionalism, and the difficulty of obtaining documentation of District 6 residents involved. He presented a binder to the Commission, which

he said included documentation associated with twenty-five donors. Mr. Moye informed the Commission that he would be able to obtain fifty additional donors within the next couple of days.

The Commission inquired about the process of applying for public financing. Shaista Shaikh, Public Finance Administrator, explained the legal requirements of eligibility to receive public financing. The Commissioners concluded that the law precluded them from granting Mr. Moye an additional extension.

Commissioner Garcia stated that the Commissioners could not grant the extension to Mr. Moye in fairness to other candidates seeking public financing who had met the requirements.

Commissioner McCoy questioned whether Mr. Moye could obtain fifty additional contributors within the next few days given that he had not provided evidence of receiving a single contribution in his numerous submissions.

The Members noted that Mr. Moye had been given a number of opportunities to comply. The Members also noted that many of the 25 contributions submitted in Mr. Moye's binder would not be considered qualifying contributions because they do not contain adequate documentation and may violate State law.

The Commission ultimately found that there was not enough evidence to show that Mr. Moye had raised the required $7,500 in qualifying contributions from at least seventy-five contributors.

Motion 02-10-18-02 (Garcia/Planthold): Moved, seconded, and unanimously passed: that the Commission uphold the Executive Director's denial of certification of Mr. Moye's qualification to receive public financing for his campaign for the Board of Supervisors, District 6.

NOTE: The remaining agenda items were taken in the following order: VII, VIII, IX, X, XI, VI.

VI. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)) and gifts (Charter section C8.105 (b) and (f) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws.

Ms. Ng presented the staff's proposed amendments to the City's conflict of interest laws as set forth in the Executive Director's October 15, 2002 memo. With the exception of the amendments discussed below, the draft amendments presented did not generate substantive questions or colloquy.

Charter Section C8.105(j) - Decisions Involving Character or Conduct

Ms. Ng explained that the first paragraph of Charter section C8.105(j) overlaps with section C8.105(c), which prohibits a public official from participating in a decision where the official has a financial interest. Therefore, staff recommends deleting the first paragraph of section C8.105(j) since it does not add anything to section C8.105(c).

Commissioner Planthold stated that he is not in favor of deleting the paragraph. He raised the question of how a member of the Board of Supervisors may vote for his or her own appointments to regional or state boards, especially when such appointments provide remuneration.

Deputy City Attorney Claire Sylvia explained that the provision only prohibits a board member from voting on his or her appointment when the member's financial interest is immediate and distinct from the public interest.

As an alternative to deleting the first paragraph of Section C8.105(j), Ms. Ng explained staff's suggestion to amend the paragraph to prohibit an official from making decisions affecting his or her own conduct, whether or not there is a financial effect.

Ms. Sylvia noted that such an amendment would prevent a board member from voting on his or her own appointments to other agency boards, regardless of whether or not the member receives remuneration.

Commissioner Planthold stressed the need to be aware of how such amendments to Section C8.105(j) will affect the Board of Supervisors and other boards and commissions.

Commissioner Melbostad did not support the proposed amendments and noted that board members do not seek appointments for the remuneration. He pointed out that the conflict of interest rules are meant to deal with financial conflicts such as investments or business interests rather than stipends.

Commissioner Garcia expressed concern regarding the inherent unfairness when a board member is allowed to cast the deciding vote for his or her appointment, regardless of any remuneration. He stated that he would support amendments that address the situation when a board member casts the swing vote on his or her appointment.

Charter Section C8.105(j) - Lack of a Quorum

Ms. Ng explained that the second paragraph of Section C8.105(j) is unnecessary and could be deleted because State law already addresses when a member of a board or commission must recuse himself or herself under the provisions of Section C8.105.

After discussion, Commissioner Planthold stated that he supports deleting the provisions of Section C8.105(j) relating to lack of a quorum.

Charter Section C8.105(f) - Gifts

Ms. Ng informed the Commission that there has been great confusion over the scope of C8.105 (f). The subsection prohibits an officer or employee from accepting gifts or any other compensation from anyone other than the City for services related to the governmental processes of the City. Staff suggested rewriting the subsection to focus specifically on gifts. As an option, staff suggested imposing a lower limit than that imposed by the Political Reform Act for certain types of gifts from persons seeking action from a public official. The Political Reform Act prohibits officers and employees who file statements of economic interests from accepting gifts of $320 or more in a calendar year from a single source.

Commissioner Planthold suggested that, for purposes of comparability and ease, the City's gift limits should not differ from State law limits. After discussing possible language for amendments, Commissioner Planthold also warned of the difficulty in defining "department."

Commissioner Melbostad expressed concern that $320 is a substantial gift.

The Commission also discussed the option of adopting a gift rule for all employees, including those that are not subject to the gift rule, i.e., employees not required to file statements of economic interests.

Commissioner Melbostad asked staff for a list of employees who are required to file statements of economic interests.

Commissioner Planthold stated that he favors a gift rule applicable to all employees to protect low level employees who may feel pressure to give gifts to supervisors.

Ms. Ng explained staff's suggestion to include a bribery provision in the law. Commissioners Planthold and Garcia noted that the "intent" element of a bribery statute must be clearly defined. Commissioner McCoy noted that intent is a question of fact.

Gifts from Lobbyists

Commissioner Planthold supported staff's suggestion to move the gift limit under the Lobbyist Ordinance to a general gift provision.

Commissioner Garcia requested a list of the types of gifts employees are receiving.

Due to Commissioner Anglade's absence, the Commission reached a consensus to defer consideration and vote on the above amendments at the next meeting. Because Commissioner Anglade has taken a lead role on conflict of interest issues, the Commission would like the benefit of her input on staff's recommendations.

VII. Discussion and possible action re: Approval of form for evaluating the performance of the Executive Director, and whether the Commission should conduct the evaluation as a committee of the whole and when the evaluation should be conducted.

Commissioner Melbostad reported that the following issues have been resolved since the publication of the agenda:

The Mayor's Office has approved the Department of Human Resources new classification for the Executive Director's position. The new classification is Department Head 1, which is the standard classification for heads of small City departments.

Because the Management Employees Association represents the new position, under terms of the M.O.U., the evaluation is conducted in June and a standard evaluation form is used.

Commissioner Melbostad informed the Commission that the only remaining issue is whether to evaluate the Executive Director's performance as a committee of the whole or appoint a personnel committee to conduct the evaluation.

Commissioner Planthold suggested the evaluation be conducted by a committee of the whole since many of the Commissioners are new to the Commission and the document is new to staff. Commissioner Planthold stated that he believes it will be easier and more informative to review the Executive Director's performance as a committee of the whole.

There was no public comment on the matter.

Motion 02-10-18-03 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the Ethics Commission will evaluate the Executive Director's performance as a committee of the whole.

VIII. Discussion and possible action re: Regulation to exclude holidays and weekends from the calculation of fines based on number of days that filings are late under the Lobbyist Ordinance and Campaign Consultant Ordinance.

Commissioner Garcia expressed his concern that excluding holidays and weekends from the calculation of fines would provide a break for filers who have no intent to file timely.

After discussing potential language to address Commissioner Garcia's concerns, the Commission agreed to defer the matter to the next meeting so that staff may redraft narrower language.

IX. Discussion and possible action re: Items for future agendas.

Deputy Director Ng reported that staff has received questions regarding the implementation of Campaign Finance Reform Ordinance Section 1.114(c), which addresses limits on contributions to committees. Staff may recommend a regulation implementing Section 1.114(c) for consideration at the Commission's next meeting.

X. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

James Reid expressed his concern that the Commission is assessing campaign finance penalties across the board despite the fact that extenuating circumstances exist in some situations.

Commissioner Garcia stated that the Commission is very interested in promulgating rules and regulations in simple language. Commissioner Garcia invited Mr. Reid to give his input on any rules or regulations that contain obscure language.

XI and XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation; Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

No closed session was held.

XIII. Adjournment.

Motion 02-10-18-4 (Garcia/McCoy): Moved, seconded, and unanimously passed: that the Commission adjourn the meeting.

The meeting was adjourned at 4:24 p.m.

Respectfully Submitted,

Shannon Hardin

Assistant Investigator/Legal Analyst

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Ethics Commission

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Phone 581-2300 Fax 581-2317

SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Friday, November 15, 2002, 2:00 P.M.*

Room 408 City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco

***Please note change in day and time.**

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of October 18, 2002.

IV. Executive Director's report
1. Budget Update
2. Implementation of limited public financing program
3. Legislative developments
4. Advice and opinions
5. Investigation and enforcement program
6. Campaign finance disclosure program
7. Campaign finance audit program
8. Lobbyist program
9. Campaign consultant program
10. Statements of Economic Interests
11. Sunshine Ordinance Declarations

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V. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)), gifts (Charter section C8.105 (b) and (f)), and post-employment restrictions (Charter sections 15.100, 15.108 and C8.105(e) and (l) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws. A staff report on economic interests and gifts, which is continued from the October 18, 2002 meeting, is available from the Commission office and its web site. An additional staff report on post-employment

restrictions will be available from the Commission office and its web site on Tuesday, November 12.

VI. Discussion and possible action re: Regulation to exclude the first holiday and/or weekend from the calculation of fines based on the number of days that filings are late under the Lobbyist Ordinance and Campaign Consultant Ordinance. Copies of the proposed regulation will be available from the Commission office and its web site on Tuesday, November 12.

VII. Discussion and possible action re: Proposed regulation implementing Section 1.114(c) of the Campaign Finance Reform Ordinance which restricts contributions to committees that make expenditures to support or oppose candidates, and explaining application to various types of committees, including committees that support or oppose ballot measures or non-City candidates. Copies of the proposed regulation will be available from the Commission office and its web site on Tuesday, November 12.

VIII. Discussion and possible action re: Approval of draft Annual Report for FY 01-02, ending June 30, 2001. Copies of the draft Annual Report will be available from the Commission office and its web site on Tuesday, November 12.

IX. Discussion and possible action re: Whether the Commission should amend its investigation and enforcement regulations to require that election-related complaints filed prior to an election be investigated and resolved on an expedited basis so that voters can take into account at the election the Commission's resolution of the allegations. At present, an allegation about a candidate or committee made prior to an election is processed in the same manner as any other complaint and, if made close in time to an election, is unlikely to be resolved prior to the election.

X. Discussion and possible action re: Items for future agendas.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 3

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XIV. Adjournment.

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Ethics Commission

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REVISED - 11/13/02

SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Friday, November 15, 2002, 2:00 P.M.*

Room 408 City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco

*Please note change in day and time.

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of October 18, 2002.

IV. Executive Director's report
1. Budget Update
2. Implementation of limited public financing program
3. Legislative developments
4. Advice and opinions
5. Investigation and enforcement program
6. Campaign finance disclosure program
7. Campaign finance audit program
8. Lobbyist program
9. Campaign consultant program
10. Statements of Economic Interests
11. Sunshine Ordinance Declarations

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V. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)), gifts (Charter section C8.105 (b) and (f)), and post-employment restrictions (Charter sections 15.100, 15.108 and C8.105(e) and (l) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and

consideration of options for revising the laws. A staff report on economic interests and gifts, which is continued from the October 18, 2002 meeting, is available from the Commission office and its web site. An additional staff report on post-employment restrictions will be available from the Commission office and its web site on Tuesday, November 12.

VI. Discussion and possible action re: Regulation to exclude the first holiday and/or weekend from the calculation of fines based on the number of days that filings are late under the Lobbyist Ordinance and Campaign Consultant Ordinance. Copies of the proposed regulation will be available from the Commission office and its web site on Tuesday, November 12.

VII. Discussion and possible action re: Proposed regulation implementing Section 1.114(c) of the Campaign Finance Reform Ordinance which restricts contributions to committees that make expenditures to support or oppose candidates, and explaining application to various types of committees, including committees that support or oppose ballot measures or non-City candidates. Copies of the proposed regulation will be available from the Commission office and its web site on Tuesday, November 12.

VIII. Discussion and possible action re: Approval of draft Annual Report for FY 01-02, ending June 30, 2002. Copies of the draft Annual Report will be available from the Commission office and its web site on Tuesday, November 12.

IX. Discussion and possible action re: Whether the Commission should amend its investigation and enforcement regulations to require that election-related complaints filed prior to an election be investigated and resolved on an expedited basis so that voters can take into account at the election the Commission's resolution of the allegations. At present, an allegation about a candidate or committee made prior to an election is processed in the same manner as any other complaint and, if made close in time to an election, is unlikely to be resolved prior to the election.

X. Discussion and possible action re: Items for future agendas.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 3

XIV. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XV. Adjournment.

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Government's duty is to serve the public, reaching its decisions in full view of the public. *Commissions, boards, councils and* ***other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.***

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Ethics Commission

November 15, 2002

Approved 12/16/02

Minutes of the Special Meeting of the

San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 408

November 15, 2002, 2:00 p.m.

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I. Call to order and roll call.

Chairperson Paul Melbostad called the meeting to order at 2:05 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michele Anglade, Commissioner; Waukeen Q. McCoy, Commissioner. Commissioner Michael Garcia was excused.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Joe Lynn, Campaign Finance Officer; Shannon Hardin, Ethics Investigator/Legal Analyst.

OTHERS PRESENT: Anita Mayo, Pillsbury Winthrop; Jim Sutton, Nielsen Merksamer Parinello Mueller & Naylor; Calvin Louie.

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney.

MATERIALS DISTRIBUTED:

Agenda for the Meeting of November 15, 2002

Executive Director's Report for the Meeting of November 15, 2002

Draft Minutes of the Special Meeting of October 18, 2002

Approved Minutes of the Special Meeting of September 12, 2002

October 15, 2002 memo from Executive Director Ginny Vida regarding proposed revisions to conflict of interest laws to address financial conflicts of interest and proposed gift rules

November 12, 2002 memo from Executive Director Ginny Vida regarding state rules on gifts

November 12, 2002 memo from Executive Director Ginny Vida regarding post-employment restrictions

Background materials for November 15, 2002 Agenda Item V

November 12, 2002 memo from Executive Director Ginny Vida regarding Item VI on November 15, 2002 agenda (proposed regulations to exclude holidays and weekends from number of days used to calculate late fines for late reports filed under Campaign Consultant and Lobbyist Ordinances)

November 12, 2002 memo from Executive Director Ginny Vida regarding proposed CFRO Regulation 1.114(c)-1

San Francisco Ethics Commission Annual Report (July 1, 2001-June 30, 2002)

November 2002 *Street Sheet* article "Election Report - From the Trenches of the Grassroots"

November 12, 2002 *San Francisco Chronicle* article "Daly wins without a runoff - District 6 supervisor faced 8 challengers"

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Calvin Louie asked the Commission for reconsideration of the late filing fine imposed against his campaign committee, Calvin Louie for Community College Board. He said that he had formed the committee two years ago and that it had been his first time running for office. He said that he still has a significant leftover debt from the costs of the campaign and, in view of that, requested that the fine, which was reduced from $6,530 to $2,980, be reduced further.

Executive Director Ginny Vida said that staff would prepare a memo to the Commission explaining the reasoning behind the fine and the committee's filing history. She said that staff had considered all of the extenuating circumstances of the committee in question and had arrived at a fair and reasonable fine.

Chairperson Melbostad asked whether if a commissioner asked to place a committee's fine on the Commission agenda, the Commission would be allowed to consider the matter and come to a different conclusion from staff. Deputy City Attorney Claire Sylvia responded that the Commission could consider an appeal from an enforcement decision, or settlement. Review of this matter was premature.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of October 18, 2002.

Motion 02-11-15-1 (Planthold/McCoy): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of October 18, 2002 be approved as drafted.

IV. Executive Director's Report.

Ms. Vida referred the Commission to the Executive Director's report and provided additional updates on the following:

The Mayor has instructed department heads and budget officers to implement an immediate three percent cut in departmental budgets this year due to a continuing shortfall in City revenues. In addition, for the next fiscal year, departments have been instructed to absorb cost-of-living and salary increases amounting to an additional 4 percent cut, and prepare a contingency plan for an added 5 percent in contingency cuts. The grand total in cuts for this year and next year may be as high as 12 percent. Departments have been asked to submit plans for the first three percent cut by December 9.

Commissioner Planthold asked whether it was possible to communicate to the Mayor's Office that the Ethics Commission's undercollection of fines this fiscal year thus far was not an indication that staff had not been fulfilling its responsibility, but rather that staff had managed to

get the message out to the political community that compliance with reporting requirements was critical, thus increasing compliance. Ms. Vida said that staff had already communicated that message and would continue to do so.

According to the report, as of November 7, a combined total of $275,064 had been awarded from the $1 million Election Campaign Fund to eligible candidates, with the possibility of a maximum of $51,000 in additional funds available to candidates for the runoff. Staff calculated that the maximum total funds awarded to candidates in the general and runoff election will not exceed $401,000, with the remainder to be made available for use by the City for the current budget year. Commissioner Planthold asked why the report contained an apparent $75,000 discrepancy. Ms. Vida explained that the $75,000 difference covers funds that candidates could claim after the election for general election expenses.

V. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)), gifts (Charter section C8.105(b) and (f)), and post-employment restrictions (Charter sections 15.100, 15.108 and C8.105(e) and (l) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws.

The Commission agreed to continue to the next regular meeting the conflict of interest (financial interests and gifts) items discussed at the October 18 meeting.

Ms. Ng presented staff's proposed amendments to the City's conflict of interest laws dealing with post-employment restrictions. With the exception of the amendments discussed below, the draft amendments presented did not generate substantive questions or discussion.

Charter Section C8.105(e): General post-employment restriction.

Ms. Ng summarized the implications of adopting Option 1, which would prohibit communications to influence, whether compensated or not, and Option 2, which would prohibit only compensated communications. The summaries are included in the November 12, 2002 memo on post-employment restrictions from Ms. Vida to the Commission.

Chairperson Melbostad said that he tended to favor Option 1 because it excludes public testimony from the category of prohibited communications and because the ban only lasts one year. He added that he thought it might be too difficult to determine what communication is compensated and what is not.

Commissioner Anglade said that she hesitated somewhat about supporting Option 1 because it would not necessarily be a simple matter to find a bright line about conflicts other than those that were directly financial. She said that it is difficult to ask people to cleanse their minds of one experience going to the next experience, especially if the only potential benefit arising from their previous experience is good will and not tangible compensation.

Charter Sections 15.100 and 15.101: Restrictions on Ethics Commissioners; Executive Director of the Ethics Commission; and Management-Level Staff.

Ms. Ng summarized the implications of adopting Option 1, which would delete the proposed restrictions if one of the general post-employment restrictions discussed previously were adopted, and Option 2, which would retain the proposed restrictions regardless of the adoption of any other general restrictions, but would clarify some of the language in the proposed restrictions. The summaries are included in the November 12, 2002 memo on post-employment restrictions from Ms. Vida to the Commission.

Commissioner Planthold said that he preferred Option 2.

Negotiating Future Employment.

Ms. Ng summarized the two options for clarifying the prohibitions in Campaign and Governmental Conduct Code Section 3.710 and 3.715 regarding employment of former City officers or employees. Option 1 would prohibit an officer or employee from making a decision affecting anyone with whom he or she was negotiating for employment. Option 2 would preclude an employee from negotiating for employment with anyone who had a matter pending before the officer or employee's department. The summaries are included in the November 12, 2002 memo on post-employment restrictions from Ms. Vida to the Commission.

Commissioner McCoy asked for further clarification of the word "indirectly" in the proposed amendments.

Commissioner Anglade asked how binding the restrictions would be. She said that she would not necessarily want to put into place provisions that would hamper anyone looking for a job once leaving City employment.

Commissioner Planthold asked staff to provide examples of what these provisions would cover.

Employment of Former City Officers or Employees.

Ms. Ng summarized the two options for clarifying language in Campaign and Governmental Conduct Code Section 3.700 regarding employment of former City officers or employees. Option 1 would restrict, for a period of one year, the ability of a former City officer or employee to accept employment with a person who negotiates or enters into a contract with the City if the person worked on the negotiations, contract or bid proposal, for the City. Option 2 would contain the same restrictions as Option 1, but would also prohibit, for a period of one year, a former officer or employee from accepting employment with a person who was subject to the direct regulation, audit, or investigative authority of the former employee or officer's department, board, or commission. The summaries are included in the November 12, 2002 memo on post-employment restrictions from Ms. Vida to the Commission.

Chairperson Melbostad said that he preferred Option 2 because it comes closer to vitiating the appearance of quid pro quo from the possible scenario of a former City employee going to work for an agency that his or her former City department had dealt with during his or her employment with the City.

Commissioner Planthold asked staff to provide examples of what these provisions would cover.

VI. Discussion and possible action re: Regulation to exclude the first holiday and/or weekend from the calculation of fines based on the number of days that filings are late under the Lobbyist Ordinance and Campaign Consultant Ordinance.

Ms. Vida stated that the staff's initial proposal was based on the fact that people do not have the opportunity to file on holidays or weekends, since the Commission office is as a rule not open on those days. Commissioner Garcia proposed at the last meeting that the regulation be changed to exclude from the calculation of fines for late lobbyist and campaign consultant reports only the first holiday and/or weekend running from the date due to the date filed. Ms. Vida pointed out that fines for late campaign reports would not fall under this rubric, because campaign report fines are calculated based on state law, which does not make any allowances for excluding weekends or holidays from fine accumulation.

Motion 02-11-15-2 (Planthold/McCoy): Moved, seconded, and unanimously passed: that the Commission adopt the proposed regulation.

VII. Discussion and possible action re: Proposed regulation implementing Section 1.114(c) of the Campaign Finance Reform Ordinance which restricts contributions to committees that make expenditures to support or oppose candidates, and explaining application to various types of committees, including committees that support or oppose ballot measures or non-City candidates.

Ms. Vida stated that when the Commission originally considered Proposition O, there was no discussion of the impact that this section would have on committees that make expenditures not only to support or oppose City candidates but also to support or oppose ballot measures and non-City candidates and ballot measures. Staff proposed an accounting method for committees to demonstrate compliance with the $500 limit on contributions to committees that support or oppose candidates when those committees raise funds in larger amounts for other purposes.

Jim Sutton spoke about case law that he thought might limit the enforceability of the proposed regulation, including *Lincoln Club of Orange County v. City of Irvine*, which he said led eight cities to dismantle local limitations on contributions. Mr. Sutton asked that the City Attorney undertake a thorough analysis of the impact this case on the proposed regulation.

Mr. Sutton wanted to know whether there was a compelling policy reason for having only one accounting method (first in, first out) as opposed to two (first in, first out and last in, first out). Ms. Vida said that staff could take a look at proposing two accounting mechanisms. Mr. Sutton added that there was no legislative history to support limitations on committees that made direct contributions to candidates as opposed to committees that make independent expenditures.

Anita Mayo said that the proposed accounting scheme would create major confusion for committees, candidates, and treasurers. As an example, she said that a committee might have $10,000 in its bank account but would have to raise more money because it had to attribute contributions to a particular donor. She asked whether it would be feasible to require committees making ballot-measure contributions or non-City-candidate contributions to establish a separate bank account for contributions made exclusively to City candidates. Ms. Vida agreed that staff could consider that suggestion.

VIII. Discussion and possible action re: Approval of draft Annual Report for FY 01-02, ending June 30, 2002.

Motion 02-11-15-3 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Commission approve the draft Annual Report.

IX. Discussion and possible action re: Whether the Commission should amend its investigation and enforcement regulations to require that election-related complaints filed prior to an election be investigated and resolved on an expedited basis so that voters can take into account at the election the Commission's resolution of the allegations. At present, an allegation about a candidate or committee made prior to an election is processed in the same manner as any other complaint and, if made close in time to an election, is unlikely to be resolved prior to the election.

Commissioner Planthold said that he had brought up the subject of expediting election-related complaints because of publicity about certain complaints that had been filed in the time leading up to the November 2002 election. He said that he was concerned that some complaints had been filed as hit pieces against candidates, with the assumption that the complaints would not be disposed of prior to the election, amounting to a trial of the candidates in the press. He said that this phenomenon raises the related questions of how quickly complaints get resolved by the Commission and whether there is any way to prioritize complaints to get the most critical ones resolved in an expeditious manner. He said he had brought the matter up not in expectation of any specific decision, but as a topic of discussion to be explored in coming months. He added that the Commission could do a better job of educating the public about the complaint process.

Ms. Vida said that while she was aware of the problems associated with complaints filed immediately prior to the election, she was concerned that the Commission might appear to inject itself into the political process by placing a priority on resolving complaints just because they are filed in the pre-election period. She added that there are other earlier complaints in the pipeline and it would be unfair to make complainants wait while election-related complaints are handled.

Commissioner Anglade suggested that a possible solution might be to institute a "cushion" around the pre-election period during which no action would be taken on any complaints.

There was further colloquy about expediting pre-election complaints. Ms. Vida said that staff could review the practices of other jurisdictions.

Jim Sutton mentioned that San Jose and San Diego investigate complaints immediately before the election, with mixed results. He said that one solution might be to limit the length of any given investigation to a year to give the public greater confidence in the complaint process.

X. Discussion and possible action re: Items for future agendas.

Ms. Vida reminded the Commission that the deadline is near for supporting the petition for review in the matter *The Governor Gray Davis Committee v. American Taxpayers Alliance* (102 Cal.App.4th 449), a case which adopts a narrow test for determining what types of expression constitute express advocacy subject to campaign reporting requirements. Chairperson Melbostad said that since the item was not on the agenda, the Commission would need to schedule a special meeting to discuss the item.

The Commission scheduled a special meeting for November 21, 2002, at 4:00 p.m., to discuss the *Governor Gray Davis Committee* case.

Ms. Vida emphasized that the Commission should place a priority on addressing further refinements to the CFRO based on the experience of the public financing program and delivering the entire package of CFRO amendments to the Board of Supervisors. She said that it is important to have the amendments as part of the law and ready to be implemented well in advance of the November 2003 election.

Chairperson Melbostad stated that he would like to schedule meetings on the impact of public financing as soon as possible after the runoff election to avoid losing track of the issue.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act Section 54956.9 (c) and Sunshine Ordinance Section 67.11 to discuss pending litigation.

Motion 02-11-15-4 (Planthold/Anglade): Moved, seconded, and unanimously passed: that the Commission adjourn into closed session.

The Commission adjourned to a closed session at 4:05 p.m.

XIII. Discussion and vote pursuant to Brown Act Section 54957.1 and Sunshine Ordinance

Section 67.12 on whether to disclose action taken or discussions held in closed session.

Chairperson Melbostad announced that the Commission had determined that it was in the best interests of the public not to disclose its closed session deliberations.

XIV. Adjournment.

There being no further items for discussion, the meeting was adjourned at 4:45 p.m.

The next regular meeting of the Commission will be held on December 9, 2002, at 5:30 p.m.

Respectfully submitted,

Frank M. Lester

Campaign Finance Assistant

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

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Thursday, November 21, 2002, 4:00 P.M.* **Room 412 City Hall***
1 Dr. Carlton B. Goodlett Place, San Francisco

*Please note change in day, time and room no.

I. Call to order and roll call.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

III. Discussion and possible action re: whether to support the petition for review, or request depublication, of the decision in Governor Gray Davis Campaign Committee v. American Taxpayer Alliance, 102 Cal App 4th 449 (2002), which adopted a narrow test for determining what types of expression constitute express advocacy that is subject to campaign reporting requirements. A copy of the opinion in this case is available from the Commission office.

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

V. Adjournment.

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Ethics Commission

November 21, 2002

Approved 12/16/02

Minutes of the Special Meeting of the

San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 412

November 21, 2002, 4:00 p.m.

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I. Call to order and roll call.

Chairperson Paul Melbostad called the meeting to order at 4:05 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michele Anglade, Commissioner; Michael Garcia, Commissioner; Waukeen Q. McCoy.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director.

OTHERS PRESENT: Cary Wong, Anna Wong, Alicia Wong

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney.

MATERIALS DISTRIBUTED:

Agenda for the Meeting of November 21, 2002

November 19, 2002 memorandum from Ginny Vida to Members of the Ethics Commission

The opinion of the court in The Governor Gray Davis Committee v. American Taxpayers Alliance, 102 Ca. App. 4th 449 (2002)

Petition for Review filed by The Governor Gray Davis Committee

Amicus Support for Petition for Review, filed by Attorney General on behalf of the California Fair Political Practices Commission

Letter in Support of Petition for Review, filed by Attorney General Bill Lockyer

Letter brief requesting depublication of the Court of Appeal decision, filed by Office of the City Attorney, City of Los Angeles, on behalf of the City of Los Angeles, the Los Angeles City Ethics Commission, and the City of San Diego

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

III. Discussion and possible action re: whether to support the petition for review, or request depublication, of the decision in The Governor Gray Davis Committee v. American Taxpayers Alliance, 102 Cal App 4th 449 (2002), which adopted a narrow test for determining what types of expression constitute express advocacy that is subject to campaign reporting requirements.

Executive Director Vida explained that the Fair Political Practices Commission and the Executive Director of the Los Angeles Ethics Commission have asked the Commission to support their respective requests for review or depublication of the *Davis* case. She said that it was important for the Commission to take a position on the *Davis* case because if it stands, committees that make independent expenditures and run issue ads for candidates and even ballot measures would not be required to register and file campaign reports because they do not use special words such as "vote for." She said that the *Davis* decision muddied the waters as to what qualifies as express advocacy. Chairperson Melbostad added that the decision would permit a committee to air a political ad one week before an election without having to file a report.

Commissioner Planthold stated that he liked the Los Angeles approach of seeking depublication. He said that the SLAPP aspects of the *Davis* case complicate matters, making it a less clear case for appeal. In response to a question from Commissioner Anglade, Ms. Vida stated that if depublication occurred, the waters may still be muddy. Thus, it would be helpful to have the California Supreme Court state its position on the matter.

Chairperson Melbostad asked whether the decision precludes action for declaratory relief under the Political Reform Act. Deputy City Attorney Sylvia said that the decision would tend to discourage suits under the Act because of concerns about a motion under SLAPP. However, she added that neither the FPPC nor Los Angeles addressed or asked the Commission to address the SLAPP issue.

Ms. Sylvia explained that if the Commission believes that it should weigh in on the *Davis* matter, the Commission could convey its decision to the City Attorney, who represents the City and who will take into account the Commission's position in determining a course of action in the matter.

Commissioner Anglade stated that she would support a review of the matter rather than depublication. Commissioner Garcia added that it would serve the Commission's purposes to have the case looked at, and that a review is a bolder approach. Commissioner McCoy noted that the petition for review did not seek depublication. Chairperson Melbostad said that he thought the proper thing to do was to have the decision reviewed.

Motion 02-11-21-1 (Anglade/Planthold): Moved, seconded, and unanimously passed: that the Ethics Commission recommend to the City Attorney that it support the Petition for Review, or in the event review is not granted, that it support depublication, of *The Governor Gray Davis Committee v. American Taxpayers Alliance*, 102 Cal. App. 4th 449 (2002).

IV. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

The Commission agreed to meet on December 16, 2002 at 5:30 p.m. instead of its regular meeting day of December 9, 2002.

V. Adjournment.

The meeting was adjourned at 4:40 p.m.

Respectfully submitted,

_____

Mabel Ng

Deputy Executive Director

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING
AND AGENDA

Monday, December 16, 2002, 5:30 P.M.*

Room 421 City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco

***Please note change in date.**

I. **Call to order and roll call.**

II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**

III. **Discussion and possible action re: Approval of the minutes of the Ethics Commission meeting of November 15, 2002 and November 21, 2002.**

IV. **Executive Director's report**
1. **Budget Update**
2. **Implementation of limited public financing program**
3. **Legislative developments**
4. **Advice and opinions**
5. **Investigation and enforcement program**
6. **Campaign finance disclosure program**
7. **Electronic filing program**
8. **Campaign finance audit program**
9. **Lobbyist program**
10. **Campaign consultant program**
11. **Statements of Economic Interests**
12. **Sunshine Ordinance Declarations**
13. **Plans for COGEL conference in December 2004**

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V. **Discussion re: Comments from candidates and other members of the public evaluating the limited public finance program for supervisorial candidates in the November 2002 election and the December 2002 runoff election.**

VI. **Discussion and possible action re: Revised proposed regulation implementing Section 1.114(c) of the Campaign Finance Reform Ordinance which restricts contributions to**

committees that make expenditures to support or oppose candidates, and explaining its application to various types of committees, including committees that support or oppose ballot measures or non-City candidates. Copies of a revised staff report and the revised proposed regulation will be available from the Commission office and its web site on Thursday, December 12.

VII. Discussion and possible action re: Possible amendments to the Campaign Finance Reform Ordinance (CFRO) based on the Commission's experience implementing the City's new limited public financing program in the November 2002 election and the December 2002 runoff election; review of amendments to the CFRO previously approved by the Commission but not yet forwarded to the Board of Supervisors; and possible additional amendments to the CFRO. A staff report and revised draft legislation will be available on Thursday, December 12 from the Commission office and its web site.

VIII. Approval of proposed form for evaluation of the performance of the Executive Director. A copy of the proposed performance evaluation form is available from the Commission office.

IX. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105 (j) and (l)), gifts (Charter section C8.105(b) and (f)), and post-employment restrictions (Charter sections 15.100, 15.108 and C8.105(e) and (l) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws. This item was continued from the November 15, 2002 meeting. A staff report on economic interests and gifts and an additional report on post-employment restrictions are available from the Commission office and its web site.

X. Discussion and possible action re: Items for future agendas.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 2

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: pending litigation.

XIV. Adjournment.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Ethics Commission

December 16, 2002

(Approved 2/10/03)

Minutes of the Special Meeting of the San Francisco Ethics Commission

City Hall, One Dr. Carlton B. Goodlett Place, Room 421
December 16, 2002, 5:30 p.m.

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I. Call to order and roll call.

Chairperson Paul Melbostad called the meeting to order at 5:33 p.m.

COMMISSION MEMBERS PRESENT: Paul H. Melbostad, Chairperson; Robert R. Planthold, Vice-Chairperson; Michele Anglade, Commissioner; Michael Garcia, Commissioner; Waukeen Q. McCoy, Commissioner.

STAFF PRESENT: Ginny Vida, Executive Director; Mabel Ng, Deputy Executive Director; Shannon Hardin, Ethics Investigator/Legal Analyst; Shaista Shaikh, Public Finance Administrator.

OFFICE OF THE CITY ATTORNEY: Claire Sylvia, Deputy City Attorney; Chad Jacobs, Deputy City Attorney.

OTHERS PRESENT: Anita Mayo, Pillsbury Winthrop; Rob Black, Nielsen Merksamer Parinello Mueller & Naylor; Gilbert F. Criswell; Ron Dudum; Michael Sweet; Dayna Bender; Jason Olson; Stacey Owens; Debbie Gordon.

MATERIALS DISTRIBUTED:

Agenda for the Meeting of December 16, 2002

Executive Director's Report for the Meeting of December 15, 2002

Approved Minutes of the Special Meeting of October 18, 2002

Draft Minutes of the Special Meeting of November 15, 2002

Draft Minutes of the Special Meeting of November 21, 2002

December 4, 2002 memo from Executive Director Ginny Vida regarding proposed CFRO Regulation 1.114(c)-1-Revised

December 12, 2002 memo from Executive Director Ginny Vida regarding additional changes to the Campaign and Governmental Conduct Code

December 11, 2002 memo from Executive Director Ginny Vida regarding examples of post-employment restrictions in proposed amendments to Taxpayer Protection Amendment of 2000 (Prop J)

October 15, 2002 memo from Executive Director Ginny Vida regarding financial interests and gifts-proposed revisions to Conflict of Interest Laws

November 12, 2002 memo from Executive Director Ginny Vida regarding background information on gifts

November 12, 2002 memo from Executive Director Ginny Vida regarding post-employment restrictions

December 12, 2002 letter from Supervisor Chris Daly

March 13, 1995 letter from the Office of City Attorney to Anita D. Stearns Mayo

December 16, 2002 letter from Paul Ryan, Center for Governmental Studies, to Members, Ethics Commission

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Gilbert Criswell stated that there should be a process to appeal to the Commission the staff's decisions regarding fines. He explained that staff fined him for late filings of campaign statements. Mr. Criswell stated that he did not collect any funds for his candidacy for the Democratic County Central Committee and that he did not form a committee. Executive Director Ginny Vida stated that she would report to the Commission after confirming with Campaign Finance Officer Joe Lynn the specifics of Mr. Criswell's fine.

Anita Mayo of Pillsbury Winthrop brought to the Commission's attention an advisory opinion issued to her by the City Attorney in March 1995. The opinion stated that gifts to local candidates are considered campaign contributions. Ms. Mayo asked whether gifts are to be aggregated with other contributions to determine compliance with contribution limits. She requested that clarification be provided to the regulated community.

III. Discussion and possible action re: Approval of the minutes of the Ethics Commission meetings of November 15, 2002 and November 21, 2002.

Motion 02-12-16-1 (Anglade/McCoy): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of November 15, 2002 be approved as drafted.

Motion 02-12-16-2 (Planthold/Garcia): Moved, seconded, and passed: that the minutes of the Ethics Commission meeting of November 21, 2002 be approved as drafted.

IV. Executive Director's Report.

Ms. Vida referred the Commission to the Executive Director's written report and noted that there were no further updates.

V. Discussion re: Comments from candidates and other members of the public evaluating the limited public financing program for supervisorial candidates in the November 2002 election and the December 2002 runoff election.

Ron Dudum:

Ron Dudum, a District 4 candidate who qualified for public financing, testified that it was not easy to qualify for public funds and that it was difficult to convince at least 75 San Franciscans to make contributions of $100 each. He said, however, that he would not recommend lowering the $7,500 threshold because a candidate who could not get 75 San Franciscans to write $100 checks is marginal. Mr. Dudum noted that the equivalent of 350 San Franciscans gave him $120 each. He said that all candidates who received public financing in District 4 had the opportunity to convey their message to the voters. He further added that candidates who tried to make an issue of public financing failed to do so.

Mr. Dudum brought the following problems/issues to the Commission's attention:

· Spending limits were lifted too easily in the general election. Prior to public financing, spending limits could only be lifted if a candidate spent more than the limit or if independent committees spent 25 percent or more of the limit. Under public financing, spending limits were lifted when non-participating candidates raised more than 100 percent of the limit (even if such candidates agreed to the expenditure ceiling), or when independent expenditures reached 100 percent of the limit. Mr. Dudum recommended that spending limits be lifted only when a candidate spends at least 100 percent of the spending limit or when independent spending exceeds 25 percent of the spending limit.

· Once spending limits were lifted for the general election, they were also lifted for the run-off election, which allowed unlimited spending. Mr. Dudum stated that independent expenditures were made to conduct polls, test messages, set up phone banks and conduct vote-by-mail programs. He said that the independent spending was not visible to the Ethics Commission, the media or the voters. He explained that public officials-Senator Dianne Feinstein, Congresswoman Nancy Pelosi, Secretary of State Kevin Shelley, Senators John Burton, Jackie Speir and Jim Brulte-sent letters to voters on behalf of his opponent, Fiona Ma. He noted that calls were also made to support his opponent. He stated that untruthful information was disseminated in the last minute barrage of direct mail.

· Mr. Dudum stated that the $17,000 in public funds that he received for the run-off was helpful but that it was no match for the onslaught of the independent spending that he estimated at a level of $300,000.

· Mr. Dudum recommended enforceable penalties for those who break spending limits.

· Mr. Dudum stated that he believed it takes $85,000 to $90,000 to run an effective campaign, and that it was difficult to run a campaign on $75,000.

· He made the following suggestions regarding a run-off, assuming that Instant Run-Off Voting is not implemented:

  · Conduct the run-off three weeks after the general election on the Tuesday before Thanksgiving. He said that doing this would reduce the effect of independent spending.

  · Require that samples of all direct mail be delivered to the Ethics Commission 72 hours before being taken to the post office. This would allow time for the candidates and the press to report on inaccuracies.

Mr. Dudum complimented staff on its expertise and helpfulness.

Michael Sweet:

Michael Sweet introduced himself as one of nine District 6 candidates and one of two publicly financed candidates in the district, the other being the incumbent. Mr. Sweet's overall assessment of the public financing program was positive. He said that he raised over $40,000 and received approximately $37,000 in public funds. He said that he collected over 300 contributions in the $100 range.

Mr. Sweet noted that any money that remains in his campaign bank account must be returned to the Ethics Commission within 30 days after the election or 30 days after the date of the audit, whichever is later. He asked the Commission to consider completion of audits by December 31 (ending date of the filing period following/including the election) so that candidates may terminate their committees by that date, close their bank accounts, avoid monthly bank fees and future filing obligations.

Mr. Sweet reported that although the $7,500 threshold was difficult to reach, he believes that it is an appropriate threshold. He also said he felt that the deadline to qualify for public funds was appropriate even though it may have imposed a burden on those who entered the race late because potential candidates should make a decision early.

Mr. Sweet said that a problem with the program was that the spending limit was lifted ten days before the election when one candidate spent approximately $75,000 to $80,000 of his own money. He noted that the candidate who broke the limit had incorrectly stated that the incumbent had broken the limit by raising more than $75,000 and, therefore justified his own spending beyond the limit. Mr. Sweet added that the Ethics Commission's press release did not state that the candidate who broke the spending limit had also broken a pledge. He recommended stronger press releases and enforcement action against candidates who break spending pledges.

In response to a question from Commissioner Michele Anglade, Mr. Sweet stated that he received contributions from San Franciscans who reside outside of District 6. He observed that if he had been limited to accepting qualifying contributions from District 6 residents only, he might not have qualified. Addressing Chairperson Melbostad's question regarding the matching formulas, Mr. Sweet stated that he felt the formulas worked well and allowed him to build funds. He stated that the $20,000 in public funds for the run-off election was too low because "big guns" came out during the run-off. He recommended $75,000 as a more appropriate amount.

Mr. Sweet complimented staff for its diligence in ensuring that the taxpayers' money was not inappropriately given away.

Jason Olson:

Jason Olson stated that he was the treasurer of the Joyce Dattner campaign (District 8). Because the committee could not raise $7,500 in qualifying contributions, it terminated prior to the deadline to qualify for public funds. Mr. Olson stated that the $7,500 threshold was too high for community candidates. He reported that although the campaign held dozens of house parties, had two full-time volunteers and four part-time volunteers, it was not able to meet the qualification threshold. The average amount of the small contributions ranged from $15 to $25. Although the campaign received contributions over $100 which aggregated to over $7,500, it could not count contribution amounts over $100 as qualifying contributions. Mr. Olson noted that upon qualifying for public funds, a candidate could enjoy tremendous benefits.

Mr. Olson said that the current system of public financing is set up to reduce pressures for candidates who could have made it without public financing. He said that when voters approved the public financing program, they intended the program to support candidates who otherwise could not run.

Mr. Olson recommended the following:

· Lower the qualifying threshold to $2,000. He noted that the $2 per resident cap would stay in place and serve as a limit on the amount of public funds that could be spent.

· Allow contributions of up to $500 to be used as qualifying contributions.

Mr. Olson added that the public financing program allows for pro-rationing of funds, but that was not needed because only nine out of 30 candidates qualified. He observed that the failure of all but a few to qualify suggests that it is really difficult to raise the threshold amount.

Gilbert Criswell:

Gilbert Criswell said that he believes the $7,500 qualification threshold is too high, but considers $2,000 to be too low. He stated that $5,500 is appropriate. He stated that enforcement is important.

Debbie Gordon:

Debbie Gordon, who served as treasurer for Eileen Hansen's publicly financed campaign, provided her personal observations to the Commission. She said that staff was knowledgeable about the program and Ms. Hansen's campaign received its funding promptly. She observed that as a result of public financing, her candidate spent more time campaigning than fundraising. Ms. Gordon encouraged the implementation of Instant Run-Off Voting.

Stacey Owens:

Stacey Owens, a professional treasurer, stated that she has worked on a number of San Francisco campaigns. She reported that public financing, in addition to other changes in state and local law, requires a great deal of expertise in order to comply with filing requirements. Ms. Owens expressed concern that with the amount of detail and paperwork required and a spending limit of only $75,000, she may no longer be able to afford to work on San Francisco campaigns because they may not be able to compensate her for her services.

She urged the Commission to consider exempting payments to professional treasurers in the calculation of spending limits. She expressed concern that committees would forego professional treasurers in their attempt to stay within the spending limits, which may result in reporting inaccuracies and fines for such committees. She also stated that professional treasurers assist committees in the audit process. There was some discussion about whether volunteers could perform the work that professional treasurers are paid to do. Mr. Dudum reported that he served as the treasurer for his own committee and explained that he could not rely on a volunteer to perform the treasurer's duties because it was crucial to him that there were no errors or other problems related to his disclosure obligations.

The Commission thanked the candidates and their representatives for their comments.

VI. Discussion and possible action re: Revised proposed regulation implementing Section 1.114(c) of the Campaign Finance Reform Ordinance which restricts contributions to committees that make expenditures to support or oppose candidates, and explaining its application to various types of committees, including committees that support or oppose ballot measures or non-City candidates.

Ms. Vida explained that the revised draft of the proposed regulation differs from the last draft in that the revised draft offers more options to committees to demonstrate compliance. Comments from the public were incorporated into the revised draft. Ms. Vida noted that the purpose of the regulation is to clarify that the $500 contribution limit pertains only to contributions to support or oppose candidates for local elective office. The limit does not affect contributions to support or oppose ballot measures or state candidates.

Ms. Vida brought the Commission's attention to the additional options available to committees as set forth on page 2 of the memo regarding the draft regulation. The regulation provides committees the following options: 1) setting up separate committees; 2) establishing separate bank accounts; 3) attributing contributions on a "first in, first out" method; or 4) using any other method to demonstrate compliance with section 1.114(c).

Ms. Vida explained that the Commission received a letter from Paul Ryan from the Center for Governmental Studies expressing concern that the definition of "expenditure" as set forth in the proposed regulation does not encompass accrued expenditures. Staff explained that there was no discrepancy because the Campaign Finance Reform Ordinance incorporates state law and the

regulation states that the listed examples are not exclusive. However, staff offered the following technical amendment to the definition of expenditure as set out on page 3 of the draft regulation:

Proposed Regulation 1.114(c)-1(e)(1):

> For the purposes of section 1.114(c) and this regulation, the term "expenditure" has the same meaning as in Government Code Section 820025. ~~is any monetary or nonmonetary payment made for political purposes, which~~ This includes but...

Motion 02-12-16-3 (Garcia/Anglade): Moved, seconded, and unanimously passed: that the technical amendment regarding the definition of expenditure be adopted as part of the proposed regulation.

Ms. Mayo commented on the reference to "...the payment of salary or expenses for a campaign employee who spends 10 percent or more of his compensated time working for a candidate..." Ms. Mayo stated that state law includes the words "in a calendar month." She said that the Commission's proposal should be consistent with state law. Staff noted that the intent was to be consistent with state law and would conform the regulation to state law.

Ms. Mayo expressed concern that the proposed regulation is complicated and that it would create confusion for regulated committees and their donors. She said that if a committee chooses to use the first in, first out method of compliance, such committee could be subject to legal action from vendors if the committee has a bank balance but cannot pay the vendor from funds in the bank account because the funds were not raised with contributions of $500 or less. Ms. Vida noted that such committees have other options. Committees could keep track of their funds and only spend funds after raising them or establish separate bank accounts or separate committees.

Motion 02-12-16-4 (Planthold/Garcia): Moved, seconded, and unanimously passed: that the Commission approve the staff proposal regarding proposed regulation 1.114(c)-1, as amended.

VII. Discussion and possible action re: Proposed amendments to the Campaign Finance Reform Ordinance (CFRO) based on the Commission's experience implementing the City's new limited public financing program in the November 2002 election and the December 2002 run-off election; review of amendments to the CFRO previously approved by the Commission but not yet forwarded to the Board of Supervisors; and possible additional amendments to the CFRO.

Chairperson Melbostad noted that staff had prepared a memorandum dated December 12, 2002, regarding Additional Changes to the Campaign and Governmental Conduct Code. He requested that the Commissioners indicate the sections that they wished to discuss. The Commissioners identified the following sections: 1.122(c), 1.104(o) and 1.104(r).

Section 1.104(0)

Commissioner McCoy asked why staff proposed to exclude loans from the definition of qualifying contributions. Ms. Ng explained that it is already the Commission's current policy not to consider loans as qualifying contributions. She further explained that because loans can be repaid, they do not indicate true support for the candidate.

Section 1.122(c)

With respect to staff's proposed methods of attribution, Commissioner Garcia asked why a weighted average method was not considered.

Ms. Mayo expressed concern that the Commission was making the law too complicated for committees and donors and that its attribution rules would diminish the right of donors to participate in the democratic process. She asserted that the law provides every donor with the

right to contribute $500 per election. Ms. Vida explained that the purpose of the legislation is to ensure that the $500 contribution limit would not be circumvented.

Commissioner Garcia asked whether the Commission's interpretation was unique. Ms. Ng explained that state law requires committees to terminate at the end of the year, which precludes the scenario that the Commission is faced with. Deputy City Attorney Chad Jacobs noted that the uniqueness in San Francisco's law is that committees may remain open and may continue raising money. There was some discussion on whether attribution precluded a donor from contributing to each election, especially since the issues may change. Chairperson Melbostad presented the reverse argument whereby a donor may have contributed to a candidate in one election and does not wish to do so in future elections, but the candidate could transfer such donor's unspent contributions to the future election. Commissioner McCoy moved to table the issue so that the Commission could explore the possibility of requiring committees to terminate at the end of the year. Commissioner Anglade asked to explore other alternatives such as time limitations on the return of contributions or transfer of contributions.

Motion 02-12-16-5 (McCoy/Anglade): Moved, seconded, and passed on a vote of four to one (Commissioner Melbostad opposing): That the Commission table the discussion of Section 1.122(c) of the CFRO and consider alternatives to attribution.

Commissioners McCoy and Anglade expressed appreciation for staff's work. Commissioner McCoy asked staff to report on the history and purpose of section 1.122(c).

Ms. Ng referred the Commission to page 10 of the draft legislation and noted that the following amendment was made: removal of the term "treasurer" from lines 2, 4 and 7.

Motion 02-12-16-6 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the term "treasurer" be deleted from lines 2, 4 and 7 of page 10 of the proposed legislation.

Motion 02-12-16-7 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the Commission approve the package of proposed amendments to the Campaign and Governmental Conduct Code, with the exception of Section 1.122(c).

Ms. Mayo asked about the status of the advice provided to her by staff regarding transfers and attribution. Ms. Ng stated that the advice stands until the law is changed.

VIII. Approval of proposed form for evaluation of the performance of the Executive Director.

Commissioner Garcia suggested that Commissioners be required to complete only those items of which they have knowledge. Chairperson Melbostad agreed by stating that commissioners do not necessarily have knowledge of all items and suggested that an appropriate option be included on the form.

Motion 02-12-16-8 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the option "Don't Know," signaled by "DK," be included on the evaluation form for each specific question.

Motion 02-12-16-9 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the Commission approve the form for evaluation of the performance of the Executive Director, as amended.

IX. Discussion and possible action re: Review of San Francisco's conflict of interest laws applicable to City officers and employees, including provisions related to economic interests (Charter sections 15.103 and C8.105(j) and (l)), gifts (Charter sections C8.105(b) and (f)), and post-employment restrictions (Charter sections 15.100, 15.108 and C8.105(e) and (l) and S.F. Campaign and Governmental Conduct Code section 3.700 et seq.), and consideration of options for revising the laws.

With respect to the provisions related to economic interests, Ms. Vida referred the Commission to the options set forth in staff's memo dated October 15, 2002. On Charter section C8.105(j), Ms. Vida stated that staff recommends option 2 of part 1. She noted that option 2 amends part of C8.105(j) to apply to decisions to appoint or discipline irrespective of whether the decision has a financial effect on the official. Option 2 would also alter the section to apply to any officer or employee of the City and County rather than just to members of boards and commissions.

Motion 02-12-16-10 (Garcia/Planthold): Moved, seconded, and unanimously passed: That the Commission adopt option 2 of part 1 regarding Charter section C8.105(j).

Ms. Ng reported that staff recommends that the Commission delete part 2 regarding lack of quorum. She noted that state law sets out procedures that apply when a member of a board or commission must recuse himself or herself because of a conflict of interest.

Motion 02-12-16-11 (Garcia/McCoy): Moved, seconded, and unanimously passed: That the Commission delete Part 2 of section C8.105(j) regarding lack of quorum.

With respect to gift provisions, Ms. Vida referred the Commission to the options set forth in staff's memo dated October 15, 2002. Ms. Vida recommended that the Commission adopt option 2 for section C8.105(b), which addresses gifts for appointments and from subordinates.

Motion 02-12-16-12 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the Commission adopt option 2 for section C8.105(b).

With respect to Charter section C8.105(f), Ms. Vida reported that this section provides that officers and employees of the City cannot accept compensation for any service that the City pays them to perform. She recommended adoptions of both options 2 and 3 as set out in staff's October 15, 2002 memo, for the Commission's approval. The options would set a gift limit of $50 from any restricted source to all employees and state that no person may offer, and no employee or officer may accept, any gift with the intent that the officer or employee will be influenced in the performance of any official act.

Ms. Mayo questioned the reduction of the gift limit to $50, considering that state law allows for a limit of $320. Ms. Vida replied that the intent is to reduce undue influence and that a $50 limit would allow a minimal gesture without undue influence. Ms. Mayo expressed concern that if the limit were set too low, it would unreasonably constrain the activities of public officials.

Motion 02-12-16-13 (Garcia/Planthold): Moved, seconded, and unanimously passed: That the Commission adopt option 2 for section C8.105(f) and increase the proposed gift limit from $50 to $100.

With respect to option 2, Ms. Mayo questioned why the provision would apply to all employees and not just the designated employees as per state law. Ms. Vida explained that the provision was being extended to cover all dealings with restricted sources.

Motion 02-12-16-14 (Planthold/Garcia): Moved, seconded, and unanimously passed: That the Commission adopt option 3 for section C8.105(f).

The Commission decided to continue its discussion of post-employment restrictions to the next meeting.

X. Discussion and possible action re: Items for future agendas.

The Commission will discuss Campaign and Governmental Conduct Code Section 1.122(c) and possible additional CFRO amendments at its next meeting.

There was some discussion as to whether the Commission should act on the recommendations

made by candidates regarding the lifting of expenditure ceilings in the general and run-off elections. The Commission decided to defer discussion of this item.

XI. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act Section 54956.9 (c) and Sunshine Ordinance Section 67.11 to discuss pending litigation.

The Commission adjourned to a closed session at 8:35 p.m.

XIII. Discussion and vote pursuant to Brown Act Section 54957.1 and Sunshine Ordinance

Section 67.12 on whether to disclose action taken or discussions held in closed session.

Motion 02-12-16-15 (Garcia/Anglade): Moved, seconded, and unanimously passed: that the Commission not disclose its closed session deliberations.

Chairperson Melbostad announced that the Commission had reached a settlement in the matter of Ethics Complaint No. 45-021122, in which Respondent Ed Jew agreed to pay an amount of $400 to resolve allegations that he had violated Section 1.116 of the Campaign Finance Reform Ordinance.

XIV. Adjournment.

There being no further items for discussion, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

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Shaista Shaikh

Public Finance Administrator

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